SENATE—*Monday, December 15, 1975*

The Senate met at 9:30 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:

Almighty God, Fountain of Light and Love, as we bow at the manger-cradle of Jesus, let there be in us a new nativity of faith and hope and the charity that endures forever. May His tenderness move us to a new gentleness toward all our fellow men in whom, however dimly, Thou dwellest, and make us sensitive to those who know bitterness and want. May the rights vouchsafed in the Federal Constitution become the possession of all people. Hasten the day when the spirit of love and gladness shall fill the Earth with shapes of purity and beauty, as of old it made the sky melodious with prophesy. Move forward the time when there shall be no more war, no more misery in our streets, because the law of love prevails. Make our hearts a cradle of peace and good will.

In this spirit give us power to work this week. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Friday, December 12, 1975, be dispensed with.

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

WAIVER OF CALL OF THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the call of the Legislative Calendar, under rule VIII, 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.

EXECUTIVE SESSION

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

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

The ACTING PRESIDENT pro tempore. The nominations on the Executive Calendar, beginning with "New Reports," will be stated.

DEPARTMENT OF DEFENSE

The second assistant legislative clerk read the nomination of Richard A. Wiley, of Massachusetts, to be General Counsel of the Department of Defense.

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

U.S. AIR FORCE

The second assistant legislative clerk proceeded to read sundry nominations in the U.S. Air Force.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

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

U.S. ARMY

The second assistant legislative clerk proceeded to read sundry nominations in the U.S. Army.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

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

DEPARTMENT OF THE INTERIOR

The second assistant legislative clerk read the nomination of H. Gregory Austin, of Colorado, to be Solicitor of the Department of the Interior.

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

MINING ENFORCEMENT AND SAFETY ADMINISTRATION

The second assistant legislative clerk read the nomination of Robert E. Barrett, of Pennsylvania, to be Administrator of the Mining Enforcement and Safety Administration.

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

MINISTER

The second assistant legislative clerk read the nomination of Michael B. Smith, of Massachusetts, U.S. Negotiator on Textile Matters, to be Minister.

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

ENVIRONMENTAL PROTECTION AGENCY

The second assistant legislative clerk read the nomination of Andrew W. Breidenbach, of Ohio, to be an Assistant Administrator of the Environmental Protection Agency.

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

NOMINATIONS PLACED ON THE SECRETARY'S DESK—AIR FORCE, ARMY, NAVY, AND MARINE CORPS

The second assistant legislative clerk proceeded to read sundry nominations in the Air Force, the Army, the Navy, and the Marine Corps which had been placed on the Secretary's desk.

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

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

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

LEGISLATIVE SESSION

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

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

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 515, 516, 517, 518, 519, 521, and 525.

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

RESTORATION OF ANNUAL LEAVE

The bill (H.R. 7976) to amend title 5, United States Code, to provide that annual leave lost by a Federal employee because of an unjustified or unwarranted personnel action shall be restored to the employee, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

ASSIGNMENT OF PAYMENTS FROM CIVIL SERVICE ANNUITIES

The bill (H.R. 6642) to provide for allotment or assignment of payments from civil service annuities, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

FRANKED MAILINGS BY MEMBERS OF CONGRESS

The bill (H.R. 4865) to amend title 39, United States Code, to prohibit certain

franked mailings by Members of the Congress and certain officers of the United States, other than mailings related to the closing of their official business, after such Members or officers have left office was considered, ordered to a third reading, read the third time, and passed.

USE OF CENSUS DATA IN LEGISLATIVE APPORTIONMENT OR DISTRICTING

The bill (H.R. 1753) to amend section 141 of title 13, United States Code, to provide for the transmittal to each of the several States of the tabulation of population of that State obtained in each decennial census and desired for the apportionment or districting of the legislative body or bodies of that State, in accordance with, and subject to the approval of the Secretary of Commerce, a plan and form suggested by that officer or public body having responsibility for legislative apportionment or districting of the State being tabulated, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

TIME LIMITATIONS FOR CIVIL SERVICE RETIREMENT

The Senate proceeded to consider the bill (H.R. 4573) to amend chapter 83 of title 5, United States Code, to establish time limitations in applying for civil service retirement benefits, and for other purposes, which had been reported from the Committee on Post Office and Civil Service with amendments, as follows:

On page 1, in line 5, strike out "(g)" and insert "(h)".

On page 2, beginning with line 11, insert:

(2) In section 552a(g)(5) strike out "to the effective date of this section" and insert in lieu thereof "to September 27, 1975";

On page 2, in line 14, strike out "(2)" and insert "(3)".

On page 2, in line 16, strike out "(3)" and insert "(4)".

On page 2, in line 18, strike out "(4)" and insert "(5)".

On page 2, in line 20, strike out "(5)" and insert "(6)".

On page 2, in line 21, strike out "(6)" and insert "(7)".

On page 2, in line 23, strike out "(7)" and insert "(8)".

On page 3, in line 1, strike out "(8)" and insert "(9)".

On page 3, in line 3, strike out "(9)" and insert "(10)".

On page 3, in line 7, strike out "(10)" and insert "(11)".

On page 3, in line 9, strike out "(11)" and insert "(12)".

On page 3, in line 12, strike out "(12)" and insert "(13)".

On page 3, beginning with line 14, insert:

(14) In section 5108(c)(11) strike out "twenty two" and insert in lieu thereof "twenty-five";

(15) In section 5108(c) redesignate paragraphs (11) through (14) as paragraphs (11) through (16), respectively;

On page 3, in line 19, strike out "(13)" and insert "(16)".

On page 3, beginning with line 21, insert:

(17) In section 5314 redesignate paragraphs (53) through (61) as paragraphs (53) through (63), respectively;

(18) In section 5315 redesignate paragraphs (91) through (104) as paragraphs (91) through (107), respectively;

(19) In section 5316 redesignate paragraphs (131) through (136) as paragraphs (131) through (139), respectively;

On page 4, in line 6, strike out "(14)" and insert "(20)".

On page 4, in line 7, strike out "(15)" and insert "(21)".

On page 4, in line 10, strike out "(16)" and insert "(22)".

On page 4, in line 13, strike out "(17)" and insert "(23)".

On page 4, in line 15, strike out "(18)" and insert "(24)".

On page 4, in line 17, strike out "(19)" and insert "(25)".

On page 4, in line 19, strike out "(20)" and insert "(26)".

On page 4, in line 20, strike out "(21)" and insert "(27)".

On page 4, in line 22, strike out "(22)" and insert "(28)".

On page 4, in line 25, strike out "(23)" and insert "(29)".

On page 5, in line 3, strike out "(24)" and insert "(30)".

On page 5, beginning with line 6, insert:

(31). In section 8193 redesignate subsection (e), the second time it appears, as subsection (f);

On page 5, in line 8, strike out "(25)" and insert "(32)".

On page 5, in line 13, strike out "(26)" and insert "(33)".

On page 5, in line 15, strike out "(27)" and insert "(34)".

On page 5, in line 20, strike out "(28)" and insert "(35)".

On page 6, in line 1, strike out "(29)" and insert "(36)".

On page 6, in line 3, strike out "(30)" and insert "(37)".

On page 6, in line 5, strike out "(31)" and insert "(38)".

On page 6, in line 15, strike out "(32)" and insert "(30)".

On page 6, in line 15, strike out "(U.S.C.)" "(— U.S.C. —)";

On page 6, in line 17, strike out "(33)" and insert "(40)".

On page 6, in line 19, strike out "34)" and insert "(41)".

On page 6, in line 21, strike out "and".

On page 6, beginning with line 22, insert:

(42) In the analysis of chapter 85 strike out item 8524 and insert in lieu thereof the following:

"8524. [Repealed.]"; and

On page 7, in line 1, strike out "(35)" and insert "(43)",

The amendments were agreed to.

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

The bill was read the third time, and passed.

COMPILATION OF CERTAIN DATA ON TOTAL POPULATION

The Senate proceeded to consider the bill (S. 1009) to amend title 13 of the United States Code to require the compilation of current data on total population between censuses and to require the use of such current data in administration of Federal laws in which population is a factor which had been reported from the Committee on Post Office and Civil Service with amendments, as follows:

On page 2, at the end of line 11, insert:

Should the Secretary be unable to produce and publish current data on total population for county and local units of general purpose government as required by this section, a report shall be made by the Secretary to the President of the Senate and the Speaker of the House of Representatives not later than one year after the date of enactment of this Act and not later than ninety days prior to the commencement of each fiscal year thereafter, enumerating each government excluded and giving the reasons for such exclusion.

On page 2, in line 21, strike out "Other current data" and insert "Surveys".

On page 2, at the beginning of line 24, strike out "(other than population)".

On page 3, beginning with line 2, strike out

"In the administration of any law of the United States in which population is used to determine the amount of benefit received by State, county and local units of general purpose government, the data most recently produced and published pursuant to section 181 shall be used except with respect to any date or period of time for which the census of population taken under section 141 is the most recent data. The preceding sentence shall apply with respect to any such law whether or not such law makes reference to the census of population taken under section 141.

And insert in lieu thereof:

"For the purpose of administering any law of the United States in which population or other population characteristics are used to determine the amount of benefit received by State, county, and local units of general purpose government, the Secretary shall transmit to the President for use by the appropriate departments and agencies of the executive branch the data most recently produced and published pursuant to section 181 except with respect to any date or period of time for which the census of population taken under section 141 is the most recent data.

On page 3, in line 25, after "township," insert "Indian tribe, Alaskan native village,".

On page 4, following line 4, insert

"SUBCHAPTER IV—INTERIM CURRENT DATA

On page 4, following line 5, insert:

"SUBCHAPTER IV—CURRENT INTERIM DATA

On page 4, following line 5, in subparagraph numbered 182, strike out "Other current data." and insert "Surveys."

On page 4, beginning with line 6, strike out

SEC. 2. (a) The Secretary of Commerce and the Director of the Office of Management and Budget shall jointly initiate the development and establishment of uniform methods and procedures to be used by the Bureau of the Census and all other bureaus and components of the executive branch in producing statistical information used in effecting the delivery of Federal benefits to State and local governments.

(b) Not later than one year after the date of the enactment of this Act, the Secretary and the Director shall report to the Committees on Post Office and Civil Service of the Senate and House of Representatives with respect to progress made toward the development and establishment of the methods and procedures described in subsection (a).

(c) Nothing in subsection (a) or (b) shall be construed as to limit the present authority of the Office of Management and Budget to develop and promulgate statistical standards and authority under the Federal Accounting and Procedure Act of 1950.

On page 5, beginning with line 5, insert

SEC. 2. (a) In the administration of any law

of the United States in which population or other population characteristics are used to determine the amount of benefit received by State, county, and local units of general purpose government, the President through the Director of the Office of Management and Budget shall insure that the most recent data provided by the Secretary of Commerce, and which refers to the same point or period in time for each class of eligible government, will be used by the appropriate departments and agencies of the executive branch.

(b) The Director shall initiate the development of uniform methods and procedures to be used by the departments and agencies of the executive branch in producing statistical information used in effecting the delivery of Federal benefits to State and local governments. The Director or his representative shall consult with the appropriate departments and agencies for this purpose, and the Director shall issue regulations for the purpose of establishing uniform methods and procedures in producing statistical information effecting the delivery of Federal benefits to State and local governments.

(c) Not later than one year after the date of enactment of this Act, the Director shall report to the President of the Senate and the Speaker of the House of Representatives with respect to progress made toward the development and adoption of the methods referred to in subsection (b).

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subchapter IV of chapter 5 of title 13, United States Code, is amended to read as follows:

"SUBCHAPTER IV—CURRENT INTERIM DATA

"§ 181. Population

"During the intervals between decennial censuses of population under section 141, the Secretary shall annually produce and publish for each State, county, and local unit of general purpose government which has a population of fifty thousand or more, current data on total population and shall biennially produce and publish for other local units of general purpose government current data on total population. Such data shall be produced and published for each State, county, and other local unit of general purpose government for which data is compiled in the most recent census of population taken under section 141. Such data may be produced by means of sampling or other methods which the Secretary determines will produce current, comprehensive, and reliable data. Should the Secretary be unable to produce and publish current data on total population for county and local units of general purpose government as required by this section, a report shall be made by the Secretary to the President of the Senate and the Speaker of the House of Representatives not later than one year after the date of enactment of this Act and not later than ninety days prior to the commencement of each fiscal year thereafter, enumerating each government excluded and giving the reasons for such exclusion.

"§ 182. Surveys

"The Secretary may make surveys deemed necessary to furnish annual and other interim current data on the subjects covered by the censuses provided for in this title.

"For the purpose of administering any law of the United States in which population or other population characteristics are used to determine the amount of benefit received by State, county, and local units of general purpose government, the Secretary shall transmit to the President for use by the appropriate departments and agencies of the executive branch the data most recently produced and published pursuant to section 181 except with respect to any date or period of time for which the census of population taken under section 141 is the most recent data.

"For purposes of this subchapter, the term 'local unit of general purpose government' means the government of a county, municipality, township, Indian tribe, Alaskan native village, or other unit of government below the State which is a unit of general government.".

(b) The table of contents for chapter 5 of title 13, United States Code, is amended by striking out

"SUBCHAPTER IV—INTERIM CURRENT DATA

"181. Surveys."

and inserting in lieu thereof

"SUBCHAPTER IV—CURRENT INTERIM DATA

"181. Population.
"182. Surveys.
"183. Use of most recent population data.
"184. Definition.".

SEC. 2. (a) In the administration of any law of the United States in which population or other population characteristics are used to determine the amount of benefit received by State, county, and local units of general purpose government, the President through the Director of the Office of Management and Budget shall insure that the most recent data provided by the Secretary of Commerce, and which refers to the same point or period in time for each class of eligible government, will be used by the appropriate departments and agencies of the executive branch.

(b) The Director shall initiate the development of uniform methods and procedures to be used by the departments and agencies of the executive branch in producing statistical information used in effecting the delivery of Federal benefits to State and local governments. The Director or his representative shall consult with the appropriate departments and agencies for this purpose, and the Director shall issue regulations for the purpose of establishing uniform methods and procedures in producing statistical information effecting the delivery of Federal benefits to State and local governments.

(c) Not later than one year after the date of enactment of this Act, the Director shall report to the President of the Senate and the Speaker of the House of Representatives with respect to progress made toward the development and adoption of the methods referred to in subsection (b).

The amendments were agreed to.

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

JOYCE ANN FARRIOR AND SARAH E. FARRIOR

The bill (H.R. 2110) for the relief of Joyce Ann Farrior and Sarah E. Farrior, was considered, ordered to a third reading, read the third time, and passed.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the Senator from Michigan seek recognition?

Mr. GRIFFIN. I do not.

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

PROHIBITING FEDERAL INTELLIGENCE AGENCY INVOLVEMENT WITH THE CLERGY

Mr. HATFIELD. Mr. President, this summer, various news sources reported that the Central Intelligence Agency has made it a regular practice over the years to use missionaries, clergy, and members of religious organizations for intelligence activities. It is my firm belief that this practice tarnishes the image of the United States in foreign countries, prostitutes the church, and violates the first amendment's separation of church and state.

Articles in the Washington Post, the Washington Star, the Chicago Tribune, the National Catholic Reporter, and Time magazine document the funding and manipulation of missionaries by the Central Intelligence Agency. Even those used to stories of intelligence agency operations have been shocked by these accounts.

Based on information gathered by Mr. John Marks of the Center for National Security Studies, the Catholic News Service and the Washington Star published stories reporting that in 1963, the CIA gave $5 million to Father Roger Vekemans, a Jesuit priest in Chile, to support activities of anti-Communist labor unions and the presidential campaign of Eduardo Frei.

This story was recounted in an August 5 article in the Washington Post, and the Post article also told of CIA plans to coordinate with the Bolivian Government a plan of attack against progressive forces in the Roman Catholic Church.

Efforts to secure the release of missionaries captured in Vietnam at the end of the Thieu regime were hindered by charges that they had been working for the CIA. Though the charges were false, the Vietnamese may have had good reason to be suspicious. According to John Marks' July 18 story for the National Catholic News Service, the Catholic bishop of a diocese outside Saigon was on the CIA payroll as late as 1971.

In August of this year, a group of missionaries were arrested in Mozambique. The suspicion of missionaries created by the involvement of the CIA with just a few of the overseas representatives of U.S.-based religious groups puts the welfare of all missionaries in jeopardy. I must emphasize that I am in no way implying that these particular missionaries are involved with the CIA, but the taint of CIA involvement with other groups in the past has put these persons in a most uncomfortable position.

In this country, Mr. President, the church is not an arm of the state, nor is the state the tool of the church. The first amendment and all our history since the creation of this Nation 200 years ago make that abundantly clear.

At the very least, the involvement of the CIA or any other intelligence agency with the clergy, missionaries, or members of religious orders abroad is a violation of this heritage and the restraints of the Constitution.

Even worse is the damage the associa-

tion does to both church and state. When we allow the CIA or any other Government intelligence agency to use our missionaries, while in the mission field or at home, to perform political and intelligence operations, we pervert the church's mission and bring discredit upon the foreign policies and credibility of the United States. For its part, the church jeopardizes the integrity of its mission when it allows itself to be used for the purposes of the state rather than for the purposes for which it was created.

Shortly after the initial revelations of CIA involvement with missionaries abroad, I wrote CIA Director Colby urging that he issue an internal directive prohibiting CIA contact with members of the clergy. Such a directive would be similar to those already in force which prohibit CIA contact with members of ACTION and Fulbright grantees. Mr. Colby replied on September 23 to the effect that the CIA has indeed used missionaries in the past for political and intelligence purposes and has every intention of continuing to do so.

I then wrote President Ford on September 19, urging him to take Executive action to bar the CIA from using the clergy. In a letter of November 5, White House Counsel Philip Buchen responded on behalf of the President, saying that—

> The President does not feel it would be wise at present to prohibit the CIA from having any connection with the clergy.

Failing action in the CIA itself or from the President, the only recourse is legislation outlawing Federal intelligence agency involvement with missonaries, clergy, or members of religious orders for the purpose of manipulating political events or collecting intelligence. I am introducing such legislation today. It prohibits the CIA, the NSA, and the DIA from paying any member of the clergy or any employee or affiliate of a religious organization, association, or society for intelligence gathering or for any other participation in agency operations. It further prohibits any member of these intelligence agencies from soliciting or accepting the services of any member of the clergy, or any employees or affiliate of a religious organization, association, or society to gather intelligence for the agency or to participate in any agency operation. I ask that the bill be printed in the RECORD at the conclusion of my remarks.

I also have copies of my correspondence with the President and CIA Director Colby on this matter, and articles on the CIA's involvement with the clergy and missionaries, and I ask unanimous consent that they be printed in the RECORD as well, following the text of the bill. The letter to me from Director Colby has been edited somewhat to protect the privacy of others.

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

Mr. HATFIELD. Mr. President, I ask unanimous consent that this legislation be jointly referred to the Committee on Armed Services and the Committee on Government Operations.

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

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

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

Mr. HATFIELD. I am happy to yield.

Mr. MANSFIELD. Mr. President, I am very happy to note that this most difficult and delicate question has been brought to the floor of the Senate by the distinguished Senator from Oregon. It is, in my opinion, a violation of the first amendment, which states quite specifically that church and State should be considered as separate entities, apart. I was interested in this because I know that in the area of the clergy being used, there have been stories in the press to the effect that $5 million was allocated to a Jesuit priest in Chile prior to the overthrow of the Allende regime. I believe that report was corroborated. Certainly, it was not denied, if my recollection is correct.

I note also that the distinguished Senator, in introducing legislation today, mentions only the CIA, the NSA, and the DIA. The Senator is aware of the fact that there are other intelligence agencies which operate overseas, such as the Air Force Intelligence, the Navy Intelligence, and the Army Intelligence. I hope that he will correct his legislation so that it will include all intelligence agencies operating overseas.

This is a most difficult question. While I can understand the use of businessmen in certain circumstances in the carrying out of covert activities, I find it most hard to understand the use of the clergy, whose avocation and vocation is to spread the word of God and the gospel and to not become involved in the affairs of governments, but, rather, in the affairs of the Holy Father. I am not referring to the Pope in that respect; I mean the Lord.

I commend the distinguished Senator for laying this out and I hope that his legislation will receive expeditious consideration.

I would hope also that the administration would give us what reasons they have for their contention that the use of missionaries will be continued in the carrying out of covert activities. I commend the Senator.

Mr. HATFIELD. Mr. President, I am very grateful for the comments made by the distinguished majority leader. I am most mindful of his concern and expressions that he has made in the past toward this whole matter of the CIA and its activities. He has again demonstrated this morning his depth of understanding and sensitivity.

I also am grateful for his suggestions for broadening the scope of the legislation to cover these other intelligence-gathering agencies that the bill itself has not incorporated. I am anxious to present these matters in more detail before the committees as they hold hearings on this matter, and the committees can consider broadening the bill at this time.

I thank the Senator from Montana.

S. 2784

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Central Intelligence Agency Act of 1949 (50 U.S.C. 403j) is amended by—

(1) inserting in section 8(a) after "provisions of law" the following: "other than subsection (c)",

(2) adding immediately after section 8(b) the following new subsection:

"(c) No funds appropriated to, or otherwise made available for use by, the Agency may be paid to any member of the clergy or to any employee or affiliate of a religious organization, association, or society for intelligence-gathering or for any other participation in Agency operations. Whenever any amount is paid by the Agency, or by any other person carrying out a function of the Agency, to a member of the clergy or to any employee or affiliate of a religious organization, association, or society for any other purpose, the Director shall cause to be published in the Federal Register, within 15 days after the date on which payment is made, a complete explanation of one's payment, including—

"(1) the name of the person to whom the payment was made,

"(2) the purpose of the payment, and

"(3) the amount and date of the payment.", and

(3) redesignating sections 9 and 10 of such Act as 10 and 11, and by inserting immediately after section 8 the following new section:

"LIMITATIONS ON AUTHORITY

"SEC. 9. (a) No person shall solicit or accept the services of any member of the clergy or any employee or affiliate of a religious organization, association, or society to gather intelligence for the Agency or to participate in any Agency operations.

"(b) Any person violating subsection (a) of this Act shall be imprisoned for no more than five years or fined no more than $10,000, or both.".

SEC. 2. Section 138 of title 10, United States Code, is amended by adding immediately after subsection (d) the following new subsection:

"(e)(1) No funds appropriated to, or otherwise made available for use by, the Defense Intelligence Agency, the National Security Agency, or any other intelligence-gathering office or agency of the Department of Defense may be paid to any member of the clergy or to any employee or affiliate of a religious organization, association, or society for intelligence-gathering or for any other participation in the operations of such agencies. Whenever any amount is paid by these agencies, or by any other person carrying out a function of these agencies, to a member of the clergy or to any employee or affiliate of a religious organization, association, or society for any other purpose, the Secretary of Defense shall cause to be published in the Federal Register, within 15 days after the date on which such payment is made, a complete explanation of such payment, including—

"(A) the name of the person to whom the payment was made,

"(B) the purpose of the payment, and

"(C) the amount and date of the payment.

"(2) No person shall solicit or accept the services of any member of the clergy or any employee or affiliate of a religious organization, association, or society to gather intelligence or to participate in operations for the Defense Intelligence Agency, the National Security Agency, or any other intelligence-gathering office or agency of the Department of Defense.

"(3) Any person violating section 138(e) (2) of this title shall be imprisoned no more than five years, or fined no more than $10,000, or both.".

EXHIBIT 1

AUGUST 26, 1975.

Mr. WILLIAM COLBY,
Director of Central Intelligence,
Washington, D.C.

DEAR MR. COLBY: I am most disturbed by recent press reports indicating that the CIA has regularly used church groups and members of the clergy as part of its covert operations. It would seem to me that all church activities overseas are tainted and made suspect by contacts of even a few church people with a secret intelligence agency and that the work of missionaries is potentially jeopardized by reports of such contacts.

It is my understanding that in the past your agency has issued internal directives prohibiting any operational contacts with certain groups of people, including Peace Corps volunteers and Fulbright scholars. Could you not do the same for members of the clergy and church officials?

In any case, I am prepared to introduce legislation which would legally bar any operational connections between the CIA and the churches, but it seems to me that the same result could be achieved by a public announcement on your part that in the future the CIA will totally separate itself from organized religion.

Sincerely,

MARK O. HATFIELD,
U.S. Senator.

CENTRAL INTELLIGENCE AGENCY,
Washington, D.C., September 13, 1975.

The Hon. MARK O. HATFIELD,
Committee on Appropriations,
U.S. Senate, Washington, D.C.

DEAR SENATOR HATFIELD: Thank you for your letter of August 26th. I regret your reaction to press reports about any relationship between CIA and church groups and members of the clergy. . . .

. . . I believe that it would be neither necessary nor appropriate to bar any connection between CIA and the clergy and the churches. In many countries of the world representatives of the clergy, foreign and local, play a significant role and can be of assistance to the United States through CIA with no reflection upon their integrity nor their mission. The "taint" to which you refer stems, I believe, more from the sensational publicity recently about CIA than from the nature of the contact we may have with such individuals. Thus, I believe that any sweeping prohibition such as you suggest would be a mistake and impose a handicap on this Agency which would reduce its future effectiveness to a degree not warranted by the real facts of the situation.

Sincerely,

W. E. COLBY,
Director.

SEPTEMBER 19, 1975.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Recent press reports have divulged startling and most disconcerting incidences of Central Intelligence Agency involvement with the clergy, members of religious orders, or missionaries abroad for the accomplishment of an intelligence mission. It is my firm belief that this involvement tarnishes the image of the United States in foreign countries and prostitutes the church.

Articles in the Washington Post, the Washington Star, the Chicago Tribune and Time magazine throughout the months of July and August amply document the CIA's recruitment and use of missionaries. A Jesuit priest in Chile was given $5 million by the CIA in 1963 to support activities of anti-Communist labor unions and the presidential campaign of Eduardo Frei. Other reports claim that the CIA was involved in a plan to arrest and discredit progressive clergy by promising to provide information on certain priests, particularly those from the United States.

Just in the last week, Nazarene missionaries in Mozambique have been arrested and imprisoned on suspicion of being CIA agents. This illustrates how even legitimate missionary programs can become suspect and frustrated by the taint of previous CIA involvement with other religious groups.

You may recall that previous efforts to secure the release of captured missionaries in Vietnam were met with charges that they had involvement with the CIA. A news story being released this week, which has come to my attention, corroborates evidence that the CIA did, indeed, use missionaries in South Vietnam for certain purposes.

The church has always been most effective in its mission when not influenced by or a part of the state. The state, in turn, has been most legitimate when it has refrained from attempting to control the faith of its citizens or use the church for its own ends. When we allow the Central Intelligence Agency to use missionaries or other clergy in foreign countries to perform its political and intelligence operations, we pervert the church's mission and create the view that the United States will resort to any means in pursuit of its particular interests.

I do not question the need for an intelligence-gathering agency in the federal government. The Central Intelligence Agency is a highly professional organization which has been of great service to this country. Part of my concern in this matter is that the Agency not jeopardize its operations by earning the reputation as the manipulator of priests, pastors, and missionaries.

I have already raised this issue with CIA Director Colby. In response, he has indicated that the Agency has used clergy in the past for intelligence-gathering and political operations, and has every intention of continuing this relationship.

It is my understanding that restrictions on CIA involvement with Peace Corps Volunteers and Fulbright scholars presently exist. A similar prohibition could be instituted, at your initative, regarding the clergy. Executive action could be equally effective and more expeditious than legislation from Congress. Failing an executive order, however, a statutory prohibition would be the only recourse.

Again, Mr. President, I urge you to take this action.

Warmest regards.

Sincerely,

MARK O. HATFIELD,
U.S. Senator.

THE WHITE HOUSE,
Washington, November 5, 1975.

Hon. MARK O. HATFIELD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HATFIELD: Thank you for your letter to the President of September 19, 1975. The President has asked me to reply for him.

I understand that Mr. Colby has previously corresponded with you concerning the CIA's relationships with church groups and members of the clergy. The President does not feel it would be wise at present to prohibit the CIA from having any connection with the clergy. Clergymen throughout the world are often valuable sources of intelligence and many clergymen, motivated solely by patriotism, voluntarily and willingly aid the government by providing information of intelligence value.

As you are aware, Select Committees in both the House and Senate are currently reviewing the activities of the CIA. Within the Administration, similar efforts to reassess the proper roles and activities of all the intelligence agencies are underway. As part of this internal review, the CIA's relationships with clergymen is one subject to discussion. I can assure you that consideration will be given to the important question of whether any regulations are needed to guide the CIA in its future relations with clergymen.

Sincerely,

PHILIP W. BUCHEN,
Counsel to the President.

[From the National Catholic Reporter, Aug. 1975]

CIA FUNDED, MANIPULATED MISSIONARIES

(By Richard L. Rashke)

WASHINGTON.—The growing awareness that the CIA has infiltrated the churches has placed church leaders on the horns of a Watergate-like dilemma.

If they do not own up to their CIA-church connections, they will be accused of a coverup; but if they tell what the know, they will further damage their credibility, shock the sensibilities of Americans and expose innocent people to the threat of expulsion, imprisonment or even torture and death.

John D. Marks, co author of the controversial *The CIA and the Cult of Intelligence* (Alfred A. Knopf), recently documented the CIA's use of missionaries as volunteer spies and its manipulation of the churches.

The CIA's extensive role in the destabilization of Chile and President Ford's defense of covert CIA activity did enough to cast a cloud of suspicion over Americans abroad, including missionaries. "This is one of the most serious threats to missionary outreach in my entire experience," said Episcopal Father William Wipfler, a former missionary to Latin America. "The groundwork has been laid for wholesale expulsions of missionaries or at least strict controls on their entry and activities, as occurred in China, India, Ceylon and elsewhere in Asia and Africa after World War II."

Wipfler was quoted by writer Gary MacEoin in a widely publicized March article, "U.S. Mission Efforts Threatened by CIA Dirty Tricks."

The fires of mistrust toward American missionaries are being fueled even more by the steady trickle of stories documenting the CIA-church connection.

The issue is complex.* * * Ecuador in the early 1960s to destroy the influence of the Cuban revolution on the future of Ecuador, to bring about a break in relations with Cuba and to promote the repression of the left.

"The Catholic church served this purpose because it was very reactionary—particularly the hierarchy," Agee told NCR.

By way of contrast, Uruguay "didn't have the power as an institution to be a great asset" to the CIA, he said, so the agency didn't bother to use the church there.

Agee's book will be published in the U.S. Aug. 8. It promises to keep the CIA-church issue alive.

As provocative as Agee's book and Marks' writings are, however, they leave one important question unanswered: how extensive is the CIA-church connection?

"I don't think the CIA has any conscious strategy to subvert the churches," said Marks, a former State Department intelligence analyst and now a staffer at the Center for National Security Studies. "I think that's overdone. To the CIA, the end justifies the means and the means have often been church people."

Former CIA operative Philip Agee agrees.

In a telephone interview from England where he is self-exiled, Agee told NCR that the CIA infiltration of a church depends "on what the specifics were in each country—whether the church in that country would be an effective (CIA) tool. It would depend on what the CIA's program would be in a particular country and whether the church could be used or manipulated to further these purposes."

Agee, who was a CIA operative in Latin America before he decided to blow the whistle in his Inside the Company: CIA Diary (Stonehill), details how the CIA used and manipulated the Catholic church in Latin America.

Marks told NCR that 30 to 40 per cent of the missionaries he sampled either had a CIA-church connection story to tell or knew someone who did. And a former Protestant missionary to Latin America, who conducted his own informal tally, placed the figure at 50 per cent.

"If I could find these things with random phone calls introducing myself as a reporter they never heard of," Marks said, "I would assume there are a lot more skeletons out there buried somewhere. But you just don't know."

Marks' doubt raises an even more important question: do church leaders really want to know how bad the CIA-church connection is?

It's risky business, for a full-scale investigation could leave a lot of CIA egg on ecclesiastical faces or it could show that the churches' hands are relatively clean.

Thomas Quigley, a staff member of the United States Catholic Conference's Office of International Justice and Peace, has called for such an investigation—"a systematic effort at intelligence gathering by missionaries themselves."

To be thorough, the investigation would have to examine three aspects of the CIA-church connection—CIA use of missionaries as voluntary spies or conduits for funds; CIA manipulation of church persons without their knowledge; and CIA harassment of "dangerous" church people.

This article will examine the first two aspects.

"Hell, I'd use anybody if it was to the furtherance of any objective," a 20-year veteran of American intelligence told John Marks. "I've used Buddhist monks, Catholic priests and even a Catholic bishop."

Marks cites four specific examples of church people who knowingly cooperated with the CIA:

A Catholic bishop in Vietnam who was on the CIA payroll until at least 1971.

A missionary in India who around 1960 fed information to the CIA but then saw how "foolish" that was and stopped.

A Protestant missionary in Bolivia who made regular intelligence reports to the CIA about the communist party, labor unions and farmers' cooperatives

Another Protestant missionary in Bolivia who until recently supplied the agency the names of people believed to be communist.

It is well-known that CIA counterinsurgency advisers organized and directed the tracking down of Che Guevara and his guerrilla force in 1967.

Marks also tells the story of Belgian Jesuit Roger Vekemans who accepted millions of CIA dollars for his programs to fight the rising left-wing tide in Chile in the early 1960s.

The Vekeman story was already documented in David Mutchler's *The Church as a Political Factor in Latin America* (Praeger, 1971).

Marks' book, co-authored by Victor Marchetti, who worked for the CIA for 14 years, principally as an analyst, says CIA agents posed as missionaries for cover. The book gives no further details.

Philip Agee told *NCR* of a Catholic priest in Ecuador who supplied information to the CIA about leftist activities in exchange for money for his programs.

The *New Asia News* reported in April that two international relief agencies in Phnom Penh, Cambodia, with religious sponsors—Catholic Relief Services and the Protestant-related World Vision, Inc.—have been receiving 95 per cent of their Southeast Asia operating funds from the Agency for International Development (AID) in exchange for highly-valued political and military intelligence.

"Although official church ties to AID programs appear relatively new, the AID's link with intelligence work is not," the News reported." In June 1970, AID Director John Hannah publicly admitted that his agency was funding front-line CIA missions in such places as Thailand and the Philippines."

Marks and Marchetti also single out AID as a favorite CIA front.

Church leaders would like to believe that voluntary CIA-church connections were just a phase of America's anticommunism hysteria of the early to mid 1960s.

Marks agrees to a point. "I know for a fact that it's harder to find things that happened more recently," he told NCR, adding that he uncovered several recent incidents.

The reason is, Marks says, that American missionaries are not as "sympathetic" to America's covert activities as they were in the '60's, and that a new breed of "social activist" missionaries would no longer cooperate with the CIA.

"It's a lot more dangerous to contact a church group at this point," he said, "because there are always one or two members who have the social consciousness—perhaps an anti-CIA attitude—and who would be very unhappy and would go to the press or whatever.

"And I think that is the reason (for fewer instances of cooperation with the CIA—the churches have changed and the CIA hasn't so much."

Both Marks and Agee agree that voluntary CIA-church connections should be exposed and that the churches should be held accountable.

"The press has the responsibility to report what's happened," Marks told NCR, "and what's happened is that the CIA, to some extent, has infiltrated church groups. I think that is a legitimate subject for reporting.

"I think it would be unfortunate if some innocent missionaries were accused, but on the other hand they have been accused already."

Marks said he found missionaries and church leaders reluctant to talk about church-CIA connections and that in two instances church persons lied to him.

One was an archbishop, he said.

"I find that kind of shocking that you have members of the clergy who are not telling you the truth," he said. "I can understand 'no comment,' but I don't like lies."

Besides using the voluntary help of church persons, the CIA has manipulated missionaries and their programs. Marks cites three examples:

A priest in India was about to accept a $5,000 grant from the Asian Free Labor Institute (An AFL–CIO auxiliary) for an educational program aimed at trade unions, when he learned from a State Department official that the money was coming from the CIA. He refused the grant on pragmatic rather than moral grounds.

CIA money flowed into a church-run national radio program in Colombia which was trying to combat illiteracy but which also contained anticommunist propaganda.

The CIA supported illiteracy programs in Colombia involving nuns as field workers who unknowingly collected important census information for the CIA.

And Philip Agee documents in his book how the CIA manipulated the Catholic church in Ecuador, even getting a member of the hierarchy "to make inflammatory statements."

Extensive CIA covert political intervention in Ecuador in the early 1960s destablized two civilian governments which refused to break relations with Cuba. The resulting chaos led to military rule.

If church leaders are concerned about the CIA's infiltration of the churches, they are even more concerned about CIA harassment of missionaries.

A document, alleged to be a plan to muzzle the Catholic church in Bolivia, surfaced recently.

The document, "The Bolivian Government's Plan of Action against the Church," was reportedly leaked by an official of General Hugo Banzer's right-wing government.

One of the 15 points in the plan reads: "The CIA promised to provide full information on certain priests, especially those from the U.S.A. In 48 hours they compiled for the minister of the interior complete files on certain priests—personal data, studies, friends, addresses, writings, contacts abroad, etc. . . . the CIA also has information on other priests and religions who are not North Americans."

The authenticity of the plan has not been verified so far, but Agee told NCR the document sounds "legitimate."

"I'm sure the CIA has many files on church people—those who have cooperated directly with the CIA," he said, "others through whom the CIA has worked without their knowledge, others whom the CIA might have considered approaching for a direct relationship but then decided not to, and others they approached but who turned them down."

The plan, which has become a symbol of CIA harassment of missionaries, names John La Mazza as someone "very helpful" in compiling the files.

La Mazza is the U.S. labor attache in La Paz, Bolivia—a favored CIA cover.

William P. Stedman Jr., U.S. ambassador to Bolivia, canceled a scheduled talk to 50 Maryknoll missionaries in Cochabamba, Bolivia, in May when they refused to allow La Mazza to accompany him.

The missionaries had invited Stedman to explain U.S. foreign policy in Bolivia to their annual conference; but when Stedman showed up with La Mazza, the Maryknollers voted against admitting the suspected CIA operative to the meeting.

"There was no way of proving whether La Mazza is working with the CIA or not," an unnamed Maryknoll source quoted in *Latinamerica Press* said, "but given the fact he is suspected, the priests felt that his presence could jeopardize the work of Maryknoll."

Concerned about the Bolivian plan to muzzle the church also surfaced in Central America. When an El Salvador priest, Rafael Barahona, was arrested and tortured by the National Guard at the end of May (*NCR*, July 4), Central America's Justice and Peace Director Juan Ramon Vega claimed the circumstances of Barahona's arrest corresponded to the specifications of the Bolivian plan, which Vega believes is CIA-inspired.

"Arrests (of priests) should be made preferably in the countryside, on deserted streets or late at night," the Bolivian plan advises. "Once a priest has been arrested the ministry should try to plant—in his briefcase and, if possible, also in his room—subversive literature and a weapon (ideally a large-bore pistol) to discredit him before the bishop and public opinion."

According to a letter Barahona wrote to his bishop, Pedro Arnoldo Aparicio, two days after his release from prison, Barahona was arrested at 10 p.m. in the countryside, his car was searched and copies of a subversive book, *The Rebel*, were planted in his mass kit. He was released amicably the next morning, after he had been beaten for about a

half hour, and told not to distribute more copies of the book.

A copy of the Bolivian plan was sent to the Senate Select Committee on Intelligence, currently investigating the CIA, by Maryknoll Father Charles Curry, an intern at Network.

"Such alleged cooperation (between the CIA and the Bolivian government) has ominous implications especially when viewed in the light of widespread and violent repression taking place in Bolivia today," Curry wrote to Senator Frank Church (D-Idaho), committee chairman.

"I bring this to your attention with the expectation that it will be of assistance to the committee in investigating the many questionable facets of CIA activity. If the committee were to take up this area of investigation, I am sure the church and missionary community would be cooperative."

Although church leaders and missionaries alike are convinced that the Bolivian plan against the church is only one instance of the CIA's harrassment of the church, not many documented cases have been brought to light so far.

Faced with the implications of the CIA's using missionaries as volunteer spies and conduits, its manipulation of the churches and their programs and its harrassment of missionaries, church leaders are not certain what to do.

Several lines of approach have been suggested.

1. In his letter to Senator Church, Curry suggests a committee investigation of the CIA's manipulation and harassment of the churches.

Committee spokesman Spencer Davis told *NCR* that CIA abuses of American missionaries is within the mandate of the committee, and that the committee would welcome evidence of such abuses.

But Davis also said he didn't think the CIA-church connection has "come up specifically," adding that the committee would be open to receiving testimony from the churches, depending on "what they had to say and the nature of the charges."

But an unidentified spokesman for the committee told the *Washington Star* that the staff is "investigating complaints that the CIA has had improper dealings with missionaries."

The spokesman also said some of the charges, which included "tapped phones, dossiers and improper use of priests," resulted from CIA activities in Bolivia.

2. John Marks, in his interview with *NCR*, suggested an ecumenical policy statement about the CIA-church connection.

"It would be a comparatively easy matter to end the whole business," he said, "if you had denominational leaders around the country making policy statements and getting together to call on the press and the director of the CIA to issue a directive—'no more contacts with the church.'"

"That would end it because the CIA would not be able to get up in public and defend its use of the churches. The only reason it's been able to go on for so many years is that no one has been paying attention. People don't know what's going on, or people didn't care or they were eagerly cooperating."

Marks sees the possibility of getting Congress to make it illegal for the CIA to use church persons in the future. He pointed out to *NCR* that former Senator J. William Fulbright of Arkansas has demanded assurances that the CIA would not use Fulbright scholars as contacts, and that it is illegal for the CIA to use Peace Corps volunteers.

"A similar action or pressure coming out of Congress would end the CIA-church connection," he told *NCR*.

But missionaries point out that Peru expelled 137 Peace Corps members for allegedly gathering political intelligence for the U.S. government, even though it is illegal for the government to use the volunteers as contacts.

And a strongly worded ecumenical policy statement, sent to President Ford in October and signed by representatives of 15 Protestant and Catholic missionary organizations, condemning CIA covert activity, received little notice in the national press.

3. Thomas Quigley goes one step further than Curry and Marks and suggests that besides conducting their own investigation of the CIA-church connection, the churches should develop a code of ethics to cover any future relationship with the CIA.

Such a code would have to deal with some practical and thorny questions such as:

Is it ethical for a missionary to serve as a CIA cover, act as an agent, accept money from suspected CIA conduits and furnish even seemingly innocuous information?

Are there any circumstances when it might be ethical for missionaries to work with the CIA?

What kind of relationship should missionaries have with U.S. personnel, the State Department, AID and the military, given that these organizations are frequent CIA covers?

4. Agee believes these three approaches—policy statements, investigations and a code of ethics—are only Band-Aids that do not treat the real cancer—an American foreign policy built around protecting American economic and business interests around the world.

Agee told NCR the CIA is only one instrument of that foreign policy together with banks, unilateral lending institutions, treaty organizations to which the U.S. belongs and military assistance programs.

Agee proposes to the churches a long-range and a short-term solution.

For too long the churches have been on the wrong side, especially in Latin America, he said. "They should quit supporting the tiny ruling minorities in the third world, switch sides and begin to practice what they preach by fighting injustice."

"The progressive elements in the churches have to be encouraged," he said.

On a more practical level, Agee suggested that the churches should "work toward exposing the CIA people in their country—identify them, expose them, drive them out, make their presence intolerable."

Agee said he knows hundreds of CIA operatives whom he did not name in his book. "This is something that has the CIA pretty worried and upset," he told NCR. "It is very disruptive to them."

"But by exposing their people, future Chiles can be prevented."

[From the Washington Star, July 23, 1975]

JESUIT: "I GOT $5 MILLION FROM THE CIA"

(By Norman Kempster)

Following a White House meeting with President John F. Kennedy in 1963, a Belgian Jesuit priest was given $5 million in under-the-table CIA money to support anti-Communist labor unions throughout Latin America and back the presidential campaign of Edwardo Frei in Chile.

The incident was related by an American Jesuit friend of Belgian Rev. Roger Vekemans as an example of the CIA's relations with missionaries and other overseas representatives of religious groups.

The Rev. James Vizzard said he was having lunch with Vekemans at a restaurant near Dupont Circle when a White House automobile picked up the Belgian for a meeting with Kennedy, Atty. Gen. Robert F. Kennedy, CIA Director John McCone and Peace Corps Director R. Sargent Shriver.

After Vekemans' session at the White House, Vizzard related, "Roger came back with a big grin on his face and said, 'I got $10 million—$5 million overt from AID (Agency for International Development) and $5 million covert from the CIA.'"

Vizzard said he has no reason to believe that the CIA ever asked Vekemans to do anything that he would not have done anyway in attempting to carry out orders from his superiors in Rome to support social development in Latin America. It was just a case of the CIA helping to finance a program that fit in with the agency's objectives.

Almost from its inception in 1947, the CIA has used religious groups both as a source of information and as a conduit for funds. CIA spokesmen declined to discuss the CIA-church connection in any detail but other sources said the relationship was prevalent in the 1950s and 1960s at least. Some souces said it may be used less frequent'y today.

Sources said the CIA dealt with religious groups in Latin America, Africa, Asia and elsewhere.

A spokesman for the Senate select intelligence committee said the panel's staff is investigating complaints that the CIA has had improper dealings with missionaries.

The spokesman said some of the accusations resulted from CIA activities in Bolivia. He said the charges included "tapped phones, dossiers and improper use of priests."

"The committee is interested in whatever it can get on this matter," the spokesman said.

Dr. Eugene Stockwell, assistant general secretary of the National Council of Churches for overseas missions, said he has personal knowledge of two cases in which missionaries provided intelligence information to the CIA. But he said they occurred 14 years ago.

However, Stockwell said his organization is warning missionaries that the CIA may try to contact them. He said it is important that overseas churchmen not be gullible enough to inadvertently provide information to intelligence agencies.

"I personally would hope that missionaries would not provide information of this kind," he said in a telephone interview.

David A. Phillips, once the chief of the CIA's Latin Americans operations, remarked, "CIA people go to church, too."

"Over the past 25 years in Latin American CIA people have been in contact to mutual advantage with some of the many fine churchmen who work in the area," said Phillips, who has been attempting to respond to criticism of the agency since he retired from active service earlier this year.

"This does not surprise or shock me," he added. "On the contrary, any information gathering organization would be derelict if it did not take advantage of the in depth expertise of American clerics working in the area."

But Phillips insisted that overseas contacts with missionary groups have declined in recent years.

"There are a lot of things that used to happen in Latin America in the 1960s that don't happen in the 1970s," Phillips said in a telephone interview.

Other sources indicated that any reduction in CIA contacts with church groups is probably due to a new suspicion of the agency on the part of missionaries rather than any CIA scruples about using religious figures.

According to the Rockefeller Commission report, the CIA routinely contacts American citizens returning from abroad to determine if they can provide useful information. The commission said the agency attempts to contact all Americans except for students and Peace Corps volunteers.

A CIA official confirmed that there is no prohibition on contacting missionaries, either those who are taking brief home leave or

those who are returning to the United States to stay. He refused to discuss specifics but he left little doubt that missionaries are routinely asked for information.

The official emphasized that in contacting returning Americans, CIA representatives always identify themselves fully and stress that the interview is voluntary.

Nevertheless, some returning missionaries have expressed shock at having been questioned by the CIA.

The CIA official said he knows of no instance in which churchmen were asked for information while they were working in foreign countries.

But former State Department intelligence officer John Marks said such contacts have been made.

Marks, a CIA critic who is director of the CIA project at the Center for National Security Studies, related the case of a Protestant missionary who said that until he left Bolivia two years ago he routinely passed on to the U.S. Embassy, and thus presumably to the CIA station, the names of Bolivians he thought were Communists.

Marks said another American at the same mission was asked to take over the reporting duties but refused to do so.

Vizzard, who serves as a lobbyist for the United Farm Workers Union, was interviewed in the living room of a house near Chevy Chase Circle which he shares with eight other Jesuit priests. He said he has frequently heard reports of CIA contacts with missionaries.

"If you get eight or ten priests together, you hear stories," he said. "Some of them are probably true, some are probably false."

Vizzard said he has first hand knowledge of CIA funding of one church-related organization in addition to what Vekemans revealed about his CIA connection.

In the 1950s, Vizzard said, he was working in the Washington office of the National Catholic Rural Life Conference which was sponsoring a series of land-reform congresses in several Latin American nations.

He related that the organization received a $25,000 check from a prominent Philadelphia businessman to help finance one of the meetings.

Vizzard said he remarked to the organization's director, Msgr. Lugi Ligutti, that the contribution was most generous.

"Ligutti replied, 'Oh, it's not his money, it's the CIA's money,'" Vizzard said. He added that he understands that the CIA helped to finance the other congresses as well.

Vekemans, the Belgian, was secretary of some of the conferenes, Vizzard said.

But Vekemans' primary effort was the Center for Economic and Social Development of Latin American located in Santiago, Chile.

Vizzard said the primary purpose of the center was to support anti-Communist labor organizations. But Vizzard said Vekemans also worked hard for the election of Frei as president of Chile in 1964.

Frei defeated Marxist Salvadore Allende that year. CIA Director William E. Colby has told a congressional committee that the CIA pumped $3 million into Frei's campaign. It was not clear whether the portion of the $5 million in CIA money which Vekemans spent on Frei's behalf was included in the $3 million total.

Allende ran for president again in 1970 and was elected. Colby told the same committee that the CIA spent $8 million in opposing Allende's election and in attempting to undermine his government. Allende died in a coup that overthrew his government in 1973.

Vizzard emphasized that support of Frei, a Christian Democrat, was a happy marriage between the CIA and the Catholic church. Both supported Frei for their own reasons.

"There really was a belief at that time that the answer to social problems was a movement like the Christian Democratic party," Vizzard remarked.

Marks said he has learned that the CIA had the Catholic bishop of a diocese outside of Saigon on its payroll at least as late as 1971. He said the CIA treated the bishop with such care that a CIA case officer flew in from Saigon for special secret meetings with him.

According to Phillip Agee, a former CIA officer who has since turned against the agency, the CIA's dealings with churches were not always of the "mutual benefit" variety described by the agency's friends.

In his book, "Inside the Company," Agee relates that in Ecuador in the early 1960s, CIA-backed squads of right-wing terrorists bombed churches because they believed the Communists would be blamed for the attacks. In most cases, Agee wrote, the blame did go to the left.

[From the Washington Post, Aug. 5, 1975]

CLERGY WARY OF CIA APPROACHES

(By Majorie Hyer)

"Come back in three days," the nun, supervisor of the little Chilean school, told the American priest.

The priest, a missionary of the Maryknoll order, was seeking answers to usually inoffensive school census-type questions for Chilean Roman Catholic bishops.

When he returned three days later, the nun was apologetic. "I am sorry, but the teachers and the parents of the children have told me not to answer your questions," she said.

"They think you are from the CIA."

That was in 1971, two years before the Chilean government of the late Salvador Allende—Latin America's first popularly elected Marxist president—was toppled from power and three years before President Ford denied any U.S. role in the coup but acknowledged and defended covert activities by the Central Intelligence Agency in Chile.

"The climate of suspicion is very real in Latin America," said the priest, Charles Curry, now based in Washington, D.C., as he recalled the 1971 encounter.

Far from being a CIA operative, Father Curry now spends much of his time trying to deal with problems of the CIA's relationship to churches. He is a leader of an ad hoc coalition of Protestant and Catholic mission groups.

The CIA's relations with church groups is one of the areas that Sen. Frank Church's (D-Idaho) committee on intelligence expects to look into "in due course," committee spokesman Spencer Davis said recently.

The churches' problems with the CIA fall into several categories: use of mission programs as a conduit for CIA funds; use of missionaries, with or without their knowledge, as intelligence sources, and what Father Curry calls "harassment" of missionaries in the field.

The last category usually involves social reform projects undertaken by progressive missionaries in countries controlled by political regimes that church leaders view as repressive but which are friendly to the United States.

A current complaint—one Father Curry referred to Sen. Church's committee—involves a situation in Bolivia.

In May, Ambassador William P. Stedman Jr. canceled a scheduled discussion with about 50 Maryknoll missionaries in Cochabamba when the missionaries objected to the presence of another U.S. embassy official who accompanied the ambassador.

The missionaries were convinced that the second man, John LaMazza, listed on the embassy roster a labor official, was a CIA agent.

LaMazza had been named as a CIA collaborator in a document circulated earlier in Bolivian church circles. The document, which allegedly originated within the Bolivian government, outlined a suggested plan of attack against progressive forces in the Roman Catholic Church.

The document stated that the CIA was involved in the plan to arrest and discredit progressive clergy by promising to "provide full information on certain priests, especially those from the U.S.A." The document called LaMazza "very helpful" in this operation.

"The CIA's collaboration with foreign governments in repressing their own people is highly questionable in itself," Father Curry told Sen. Church in requesting the Senate committee to investigate.

"But because our government's mission in foreign countries is charged with protecting the security and interests of American citizens there, the CIA's action directed against those very American citizens is doubly questionable," he said.

Church sources estimate there are more than 42,000 Americans, Protestant and Catholic, serving as missionaries in other countries.

John Marks, former State Department intelligence officer who coauthored "The CIA and the Cult of Intelligence," has charged that since its beginning in 1947, the CIA has used religious leaders as information sources.

"A lot of people are willing to cooperate," said the Rev. William Wipfler of New York, who heads the Latin American working group of the National Council of Churches. "You can't damn the CIA for talking to anybody who's willing."

As early as 1967, the National Council of Churches, whose membership includes most of the main Protestant and orthodox demoninations, formally frowned on such conversations.

The Rev. Dr. David M. Stowe, overseas mission boss, recently took from his files a copy of a policy statement that said, in part, that "as a matter of policy," NCC disapproved of a staff members "reporting to CIA agents or entering into any other involvement with the CIA."

Dr. Stowe, mission executive for the United Church of Christ, said the statement was "circulated to member denominations" of the NCC but as far as he knows, none adopted it.

Early last month, representatives of nearly a score of Protestant and Catholic groups came together at Father Curry's invitation to explore a possible "code of ethics" for missionaries in dealing with the CIA.

Church mission leaders queried recently about encounters with the CIA were reluctant to talk. But conversations confirmed that CIA approaches were not uncommon.

The experience of Missionary A., appears to be typical:

Mr. A. had been back in a U.S. city about a week when he received a phone call and was asked to come downtown to "discuss something."

The caller, who said he was with "the government," said it had something to do with Country X, the Latin American nation where Mr. and Mrs. A. had served for a number of years.

At the designated address downtown, behind an unmarked door, Mr. A. was ushered into the office of a man who said he was from the CIA.

"As you know, there's an American corporation in your community (in Country X) and we're very concerned about what's happening down there," the CIA agent began.

The CIA agent, Mr. A. recalled, "had a folder in front of him with my name on it, and it was quite full. He also assured me he was a member of my denomination and

casually mentioned the names of former associates of mine—ministers here in the States."

Mr. A. said he refused to inform on the people in Country X who had been his parishioners.

A few weeks later, the family moved to another city. One evening, a woman who said she was a CIA agent called on Mr. and Mrs. A. seeking information about Country X. She, too, was rebuffed.

John Marks believes that such CIA practices could be "stopped in a week" if U.S. church leaders strongly spoke out against it.

Rev. Dr. Eugene Stockwell, overseas mission head of the National Council of Churches, disagrees.

"I don't think the CIA will be that responsive to any statement we make," he said.

Father Curry has raised the question of "legislation to prohibit the CIA from operating in a covert way . . . so that any contact they make must be made public."

In the long run, however, he believes that the "education" of missionaries might be more effective.

"It's important to know what the CIA is doing, to be more knowledgeable about what they are up to" so missionaries can be more discreet, he said.

In the past, the CIA has funded church programs and individuals viewed as furthering U.S. policy.

One example is the Rev. Roger Vekemans, a Belgian sociologist sent by the Jesuit General, worldwide head of the order, to Chile in 1957 to help stop the advancing Marxist tide of Allende.

Father Vekemans developed a network of cultural and social agencies aimed at strengthening the Christian Democratic Party and destroying the effectiveness of the Marxists.

By 1963, Vekemans' Center for the Economic and Social Development of Latin America controlled allocations of $25 million a year, he told an interviewer.

Of that amount, $5 million came from the International Development Foundation, an agency revealed in 1967 to be wholly subsidized by the CIA.

Father Vekemans' operation is detailed in a David E. Mutchler's "The Church as a Political Factor in Latin America."

Although the book was published in 1971, an account of the CIA funding of the Jesuit was largely ignored until the recent flurry of interest in the CIA.

Thomas Quigley, Latin America expert for the U.S. Catholic Conference, believes that the days of such practices are over.

"I don't think that kind of large funding is around anymore," he said.

Despite their reluctance to talk about their encounters with the CIA, religious leaders are keeping a careful watch on probes into the agency.

In October, after President Ford defended covert CIA activities in Chile, angry representatives of 16 Catholic and Protestant mission agencies sent him an open letter.

Calling his defense of the CIA "immoral," they charged that "CIA covert actions in the Third World frequently support undemocratic governments which trample on the rights of their own people. . . ."

"Gangster methods undermine world order and promote widespread hatred of the United States," they said.

Though the ad hoc coalition of Protestant and Catholic mission groups, Father Curry said he expected to "keep a collective eye" on the situation and to remain alert for abuses "now that we have a new consciousness of the problem, now that we know what the CIA is up to."

[From the Washington Star, Aug. 13, 1975]

CHURCH-STATE RELATIONS DO NOT NEED CIA MEDDLING

(By Garry Wills)

American missionaries are often accused of being cat's paws for their government, and with good reason. Our 19th Century missionaries in China laid the way for Pacific empire, as Mark Twain pointed out so eloquently. Missionary efforts in Latin America depended on local missions that were often in cahoots with right-wing regimes, which were in turn propped up by our government.

Yet many missionaries of all faiths have labored to overcome the natural suspicion that greets them. The greatest missionary of our time, Mother Theresa of Calcutta, is not an American; but I have known Americans like her, those who think the best way to preach a gospel of love for the poor is to embody that love in unquestionable ways.

There can be no better charity than money given to such men and women. It goes 100 per cent for the poor. I know a non-political priest in Honduras who, if you send him $50, will himself put up a home for a poor family, laboring on it with the members of the family. (Address supplied on request.)

When men and women give up so much of their lives to break down the suspicion that they are being used by the American government, it is despicable for the CIA to undermine that effort. Yet secret funding of missionary efforts has led to this result. Chile was a special target for covert funds in the '60s, according to a 1970 book by David Mutchler.

Our ambassador in Bolivia cancelled a talk to Maryknoll missionaries because they asked him not to appear with an American thought to be a CIA agent—an example of the pressure put on missionaries to endorse American attitudes.

Stories of efforts to recruit missionaries, or use them, or make them dependent on CIA funds, have been uncovered by John Marks, the co-author of "The CIA and the Cult of Intelligence." Phillip Agee, in his new book, tells how the CIA used Catholic priests in Ecuador. In the wake of other CIA revelations, priests and ministers are beginning to wonder at things they did not understand before, or volunteering things they discovered in the past but found no one interested in.

The *National Catholic Reporter* is collecting evidence of this meddling, and already the moral is clear: The CIA holds nothing sacred, including the sacred. It has to meddle in everything. While court decisions and public debate were drawing up elaborate rules of separation between church and state here in America—so that tax funds cannot go to religious schools, for instance—the CIA was giving our tax money directly to churches, priests, nuns, ministers and religious schools for non-Americans. It is just part of that absurd mentality that has put the CIA outside the law at home and abroad. What we need, right now, is not so much a wall of separation between church and state but a wall between us and the CIA, to protect us from its imperial meddling.

[From Time magazine, Aug. 11, 1975]

CLOAK-AND-DAGGER STORIES

Businessmen, students, journalists, even Mafiosi have all, it seems, been used by the CIA for its various overseas operations. Has the CIA also extended its reach to the church? Many missionaries, particularly in Latin America, have regularly, and falsely, been accused of having CIA ties. Last week religious periodicals around the U.S. were carrying new allegations that certain churchmen had either given information to the CIA or received money from it for propagana purposes. Most of the charges came from two articles, distributed by the National Catholic News Service, written by an inveterate CIA foe, John D. Marks, author with Victor Marchetti of *The CIA and the Cult of Intelligence* (TIME, April 22, 1974).

Marks interviewed more than 30 church and CIA sources, most of whom insisted upon anonymity and made veiled accusations. A typical charge was that during the '60s CIA funds had been channeled into a Catholic-run anti-Communist radio network in Colombia. Another allegation: 15 years years ago, a Protestant missionary in Bolivia, "as a patriotic duty and not for pay," gave reports to the CIA about the Communist Party, labor unions and farmers' cooperatives. At least one nun in Colombia, an ex-agent says, meticulously compiled an account of the political affiliation of each family in a village; it went to the CIA. According to Marks' report, another ex-agent claimed that a Roman Catholic bishop in South Viet Nam was "on the CIA's payroll" as recently as 1971. A knowledgeable Vatican source, informed of this charge, stoutly maintained that no bishop would ever knowingly take CIA money, even for good purposes, much less be "on the payroll."

Boasted of Money. Marks provided the most detail about a Belgian Jesuit priest named Roger Vekemans, who arrived in Chile in 1957 and founded a network of social-action organizations, one of which grew to have 100 employees and a $30-million-a-year budget. In 1963, Marks reported, Vekemans boasted to Father James Vizzard, now Washington lobbyist for the United Farm Workers, of getting money from the CIA. After a meeting with President Kennedy and CIA Director John McCone, Vekemans had dinner with Vizzard in Washington and said with a grin: "I got $10 million—$5 million overt and $5 million covert." The first half was from the Agency for International Development, he explained, and the second half was from the CIA, largely to help Eduardo Frei beat Marxists Salvador Allende in the next presidential election. Vekemans, who has now shifted his base of operations to Bogotá, refused to give his version of the tale last week.

Whatever is later substantiated about Marks' cope-and-dagger stories, TIME's sources report that the CIA as a matter of policy only rarely tries to make any contact in the field with U.S. missionaries. Over the years, as it did with certain other travelers, the agency interviewed a number of returning missionaries about conditions in the countries they had left. Several Protestant and Catholic mission boards are now discussing whether to direct their people to have no contact at all with the CIA—a policy that the pacifist Chuch of the Brethren established last October.

[From the Chicago Tribune, Aug. 2, 1975]

SPY ROLE OF MISSIONARIES TOLD

(By James Robison)

He spoke matter-of-factly. But what he said had far more impact than the way he said it. It revealed a pattern of alleged Central Intelligence Agency entanglement with the church.

"It just seemed that when I made these phone calls I kept turning up missionaries who had CIA involvements or knew someone who did," John Marks, coauthor of "The CIA and the Cult of Intelligence," said in a telephone interview with The Tribune.

Marks, who worked five years as an analyst for the State Department's Intelligence Bureau, said that 30 to 40 per cent of his calls produced a missionary who had a story of CIA-church connections overseas or knew someone who did.

"There must be a lot of it [CIA-church connections] because I didn't even look very hard," Marks said, noting that his sam-

pling was completely unscientific and involved about 30 missionaries.

Marks, however, had other stories culled from his knowledge of the intelligence community. But he refused to name names, something that got him into a tussle with the courts in the publication of the book that he wrote last year with Victor Marchetti, a 14-year CIA veteran.

He told The Tribune about:

A Catholic bishop in Viet Nam who was on the CIA payroll until at least 1971.

A Protestant missionary to Bolivia who filed CIA reports naming people he suspected of being Communists.

A missionary in India who supplied data to the CIA but then stopped when he realized "how foolish" it was.

Another Protestant missionary in Bolivia who kept tabs on the Communist Party, labor unions, the farmers' cooperatives on behalf of the CIA.

Marks' allegations follow recent reports that Belgian Jesuit Roger Vekemans received $10 million in CIA and Agency for International Development funds from the Kennedy administration in 1963 to counter the growing Leftist sentiment in Chile.

Marks said it was a common attitude among members of the intelligence community to use anyone, regardless of his position, to secure information or further CIA goals.

"Hell, I'd use anybody if it was to the furtherance of any objective," one intelligence officer was quoted by Marks. "I've used Buddhist monks, Catholic priests, and even a Catholic bishop."

But being unwittingly used by the CIA may have been a more common occurrence for missionaries, Marks said. He spoke of several examples where money was supplied by the CIA thru various front organizations:

A grant of $5,000 from the Asian Free Labor Institute for educational programs aimed at trade unions was to be funnelled to a priest in India until he discovered the money was from the CIA. He turned down the grant.

A "Msgr. Salcedo" regularly accepted money for a church-run radio program aimed at combating illiteracy but also broadcasting anti-Communist propaganda.

Another CIA-funded illiteracy program in Colombia used nuns who unwittingly collected data for the CIA as part of their field work.

But how reliable are Marks' allegations?

"The specific allegations that Marks makes are pretty credible," said Thomas Quigley, a Latin American expert with tne United States Catholic Conference.

"I frankly don't believe that the CIA finds information from missionaries very important," said the Rev. Eugene Stockwell, head of the National Council of Churches' Overseas Ministries.

The Rev. Paul McCleary, director of the National Council's Church World Service, questioned the "relevance [of Marks' charges] at this moment in history. What he says may have been the case in the past. But is it happening today? We ought to take his statements seriously, either to prove them or disprove them."

The Rev. Charles Curry, a Maryknoll missionary to Chile until September, 1973, said Marks' allegations are probably exceptions rather than the rule in the relations between the CIA and the church.

"The willing cooperation of missionaries has been almost nil," he said, noting, however, that the use of unwitting missionaries was probably more widespread.

But what disturbs Father Curry more is the reported involvement of the CIA with foreign governments trying to thwart missionaries.

He said he had sent what purported to be a copy of "The Bolivian Government's Plan of Action Against the Church" to the Senate Select Committee on Intelligence which is investigating the CIA.

Father Curry pointed out "Paragraph Four," and questioned if the paragraph was the tip of the iceberg of CIA involvement in the harassment of missioneries felt to be working against U.S. interests in Latin America.

The paragraph read: "The CIA, thru Freddy Vargas and Alfredo Arce, has decided to get directly into this project. The CIA promised to provide full information on certain priests, especially those from the U.S.A. In 48 hours, they compiled for the Minister of Interior complete files on certain priests, personal data, studies, friends, addresses, writings, contacts abroad, etc."

Father Curry said he found it contradictory that the U.S. presence in foreign countries was supposedly to protect U.S. citizens but, if the Bolivian document was reliable, the CIA was out to help damage U.S. citizens.

"On the one hand," he said, "there was someone protecting you. On the other hand, there was someone out to undermine you."

[From the Chicago Tribune, Aug. 2, 1975]

CHURCHES SEEK END TO THE CIA CONNECTION

Even before John Marks' revelations about Central Intelligence Agency-church connections, there was growing concern within the religious community about ties between the CIA and missionary personnel.

"This is one of the most serious threats to missionary outreach in my entire experience," the Rev. William Wipfler, head of the Latin American Working Group of the National Council of Churches, said in an interview with Gary MacEoin published by Christian Century magazine.

"Every United States missionary is now automatically suspect," he said. The groundwork has been laid for wholesale expulsions of missionaries or at least strict controls on their entry and activities, as occurred in China, India, Ceylon, and eleswhere in Asia and Africa after World War II."

Can anything be done to shore up the discredited missionary effort in the wake of the disclosures about CIA-church connections?

Marks has suggested the churches prevail upon President Ford to issue an executive order outlawing CIA contact with overseas church personnel.

"The President could end it in 10 minutes with an executive order," Marks said. "Or else, someone could attach a rider on a bill [in Congress] making it illegal for the CIA to use church people."

Marks said the CIA already has an internal policy against using Peace Corps personnel or Fulbright Scholars.

"The church should be given as much deference," he said.

"The missionary groups themselves need to do something," Thomas Quigley, the Latin American expert with the U.S. Catholic Conference, said. An ecumenical effort to get to the bottom of the alleged CIA involvement would be one step, he said.

"It behooves them [the mission groups] to make it very explicit that they reject such involvement," he said.

Quigley suggested mission groups might draw up a "code of ethics" for mission activity "describing what is undesirable behavior."

The Rev. W. Sterling Cary of Hilsdale, president of the National Council of Churches, said "Obviously, we don't approve the CIA approaching missionaries or using missionary support."

However, he questioned the need for a government inquiry into CIA-church connections or the need for specific legislation enjoining the intelligence agency from contacting missionaries.

"Those who are acting in behalf of the church do not need the government to maintain their integrity," the Rev. Mr. Sterling said. "I can assure you that if at any point, as president of the National Council, I received documentation that our people were collaborators with the CIA, there would be an immediate investigation of our own."

The Rev. Eugene Stockwell, head of the National council's overseas ministries, said the allegation of CIA contracts with mission personnel have been discussed by his executive committee.

"There was the feeling that we ought to find out more about it," he said. "But we didn't want to put out a statement that would even imply that missionaries were giving information to the CIA in large numbers."

Meanwhile, Americans United for Separation of Church and State, an interdenominational group based in Washington, has already appealed to President Ford for government safeguards in the wake of reports about CIA religious entanglements.

"The United States government is barred by the Constitution from funding operations of religious institutions or entangling itself in their affairs," the group stated in a letter to the president. "We respectively urge that you and the Congress erect safeguards to prevent future use of public funds for such purposes."

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business for not to extend beyond the hour of 10 a.m., with statements therein limited to 3 minutes.

ORDER FOR RECOGNITION OF SENATOR TAFT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the conference report on the situs picketing bill is called up, the distinguished Senator from Ohio (Mr. TAFT) be allocated a period of time of from 15 minutes to not to exceed 20 minutes.

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

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Heiting, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session, the Acting President pro tempore (Mr. METCALF) laid before the Senate messages from

the President of the United States submitting sundry nominations which were referred to the appropriate committee.

(The nominations received today are printed at the end of the Senate proceedings.)

APPROVAL OF BILLS

A message from the President of the United States announced that he has approved and signed the following bills:

S. 267. An act to designate the Flat Tops Wilderness, Routt and White River National Forests, in the State of Colorado; and

S. 1245. An act to amend section 218 of title 23, United States Code.

MESSAGE FROM THE HOUSE

At 11:15 a.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House has rejected the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3474) to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and for other purposes.

The message also announced that the House recedes from its disagreement to amendment of the Senate to the bill (H.R. 3474) to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and for other purposes, and concurs therein with an amendment in which it requests the concurrence of the Senate.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

At 12:40 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolution:

H.R. 8122. An act making appropriations for public works for water and power development and energy research, including the Corps of Engineers—Civil, the Bureau of Reclamation, power agencies of the Department of the Interior, the Appalachian regional development programs, the Federal Power Commission, the Tennessee Valley Authority, the Nuclear Regulatory Commission, the Energy Research and Development Administration, and related independent agencies and commissions for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes.

H.R. 8674. An act to declare a national policy of coordinating the increasing use of the metric system in the United States, and to establish a U.S. Metric Board to coordinate the voluntary conversion to the metric system.

H.J. Res. 733. Joint resolution making further continuing appropriations for the fiscal year 1976, and for other purposes.

The enrolled bills and joint resolution were subsequently signed by the President pro tempore.

At 5:30 p.m., a message from the House of Representatives delivered by Mr. Hackney announced that the House 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. 10647) making supplemental appropriations for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes; that the House recedes from its disagreement to the amendments of the Senate Nos. 28 through 36, inclusive, 37 through 42, inclusive, 46, 47, 48, 49, 52, 54, 65, 76, 77, and 82 and concurs therein; and that the House recedes from its disagreement to the amendments of the Senate Nos. 5, 6, 44, and 59 and concurs therein, each with an amendment in which it requests the concurrence of the Senate.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. McGOVERN, from the Committee on Agriculture and Forestry, without amendment:

H.R. 7862. An act to amend the Farm Credit Act of 1971 relating to credit eligibility for cooperatives serving agricultural producers, and to enlarge the access of production credit associations to Federal district courts (Rept. No. 94–554).

By Mr. BARTLETT, from the Committee on Interior and Insular Affairs, with amendments, and an amendment to the title:

S. 1823. A bill to provide for the disposition of funds appropriated to pay judgments in favor of the Sac and Fox Indians in Indian Claims Commission dockets 219, 153, and 135, and for other purposes (Rept. No. 94–555).

By Mr. EASTLAND, from the Committee on the Judiciary:

S. Res. 330. An original resolution authorizing supplemental expenditures by the Committee on the Judiciary for inquiries and investigations. Referred to the Committee on Rules and Administration.

By Mr. CHURCH, from the Committee on Interior and Insular Affairs, without amendment:

S. 2089. A bill to authorize modifications to the Dickinson Dam, Dickinson Unit, Pick-Sloan Missouri Basin program, North Dakota, and for other purposes (Rept. No. 94–556).

By Mr. HUDDLESTON, from the Committee on Agriculture and Forestry, without amendment:

S. 2260. A bill to establish improved programs for the benefit of producers and consumers of rice (Rept. No. 94–557).

By Mr. HUDDLESTON, from the Committee on Agriculture and Forestry, with an amendment:

S. 700. A bill to amend the Agricultural Adjustment Act of 1938, as amended (Rept. No. 94–558).

By Mr. NUNN, from the Committee on Armed Services, without amendment:

S. 2090. A bill to make the provisions of section 1331(e) of title 10, United States Code, retroactive to November 1, 1953 (Rept. No. 94–560).

By Mr. NUNN, from the Committee on Armed Services, with an amendment, and with an amendment to the title:

S. 2117. A bill to amend sections 5202 and 5232 of title 10, United States Code, relating to the appointment to the grades of general and lieutenant general of the Marine Corps officers designated for appropriate higher commands or for performance of duties of great importance and responsibility (Rept. No. 94–561).

By Mr. NUNN, from the Committee on Armed Services, with amendments:

S. 2115. A bill to amend chapter 39 of title 10, United States Code, to enable the President to authorize the involuntary order to active duty of selected reservists, for a limited period, whether or not a declaration of war or national emergency has been declared (Rept. No. 94–562) (together with minority views).

ADMINISTRATIVE PRACTICE AND PROCEDURE—REPORT NO. 94–559

Mr. KENNEDY, from the Committee on the Judiciary, submitted a report entitled "Administrative Practice and Procedure," prepared by the Subcommittee on Administrative Practice and pursuant to Senate Resolution 255, 93d Congress, 2d session, which was ordered to be printed.

LOCAL PUBLIC WORKS CAPITAL DEVELOPMENT AND INVESTMENT ACT OF 1975—H.R. 5247—CONFERENCE REPORT—REPORT NO. 94–563

Mr. RANDOLPH submitted a report from the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5247) to authorize a local public works capital development and investment program, which was ordered to be printed.

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. HATFIELD:

S. 2784. A bill to amend the Central Intelligence Agency Act of 1949 to prohibit expenditures for intelligence-gathering by clergymen, and for other purposes. Referred jointly, to the Committee on Armed Services and the Committee on Government Operations, by unanimous consent.

By Mr. DOLE:

S. 2785. A bill to amend the Emergency Petroleum Allocation Extension Act of 1975. Referred to the Committee on Interior and Insular Affairs.

By Mr. HUGH SCOTT:

S. 2786. A bill for the relief of Kim Yon Jin; and

S. 2787. A bill for the relief of Ana Young. Referred to the Committee on the Judiciary.

By Mr. CHILES:

S. 2788. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income certain amounts received by members of certain firefighting and rescue units. Referred to the Committee on Finance.

By Mr. TAFT:

S. 2789. A bill to amend title 38, United

States Code, to provide counseling for certain veterans; to permit acceleration of monthly educational assistance payments to veterans; to revise the criteria for approval of nonaccredited courses; and for other purposes. Referred to the Committee on Veterans' Affairs.

By Mr. MOSS:

S. 2790. A bill to strengthen the penalty provisions of the Gun Control Act of 1968. Referred to the Committee on the Judiciary.

By Mr. ROTH:

S. 2791. A bill to require approval by the Director of the Office of Management and Budget of the use of new or revised forms by the Internal Revenue Service. Referred to the Committee on Finance.

By Mr. EASTLAND:

S.J. Res. 151. A joint resolution to authorize and request the President to issue a proclamation designating July 2, 1976, as an official holiday. Referred to the Committee on the Judiciary.

By Mr. CLARK:

S.J. Res. 152. A joint resolution prohibiting the use of funds for certain intelligence activities in, to, for, or on behalf of Angola. Referred to the Committee on Foreign Relations.

STATEMENTS OF INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATFIELD:

S. 2784. A bill to amend the Central Intelligence Agency Act of 1949 to prohibit expenditures for intelligence-gathering by clergymen, and for other purposes. Referred, jointly, to the Committee on Armed Services and the Committee on Government Operations, by unanimous consent.

(The remarks of Mr. HATFIELD when he introduced the above bill appear earlier in today's RECORD.)

By Mr. DOLE:

S. 2785. A bill to amend the Emergency Petroleum Allocation Extension Act of 1975. Referred to the Committee on Interior and Insular Affairs.

EXTENSION OF EPPA

Mr. DOLE. Mr. President, today I am introducing a bill to extend until March 15, 1977, the Emergency Petroleum Allocation Act which contains the authority for the existing price and allocation control program on the oil industry.

The primary purpose of this bill is to show that there is a better approach than that contained in the conference report on S. 622, the Energy Policy Act. The purpose in introducing this bill is to show that S. 622 is not a step forward. On the contrary, it is a step backwards. It is even worse than the existing price control program.

The purpose in introducing this bill is not to say that a simple extension is the best possible approach to achieve energy independence. It is simply to say that this simple extension is better than the legislation that is now in its final stages.

The second purpose of this legislation is to provide a rallying point for those members of the Senate who recognize that the energy policy bill is contrary to the national interests. This is particularly important in view of continued silence from the White House as to whether the President will sign or veto the Energy Policy Act.

The prevailing argument in favor of the President signing S. 622 into law seems to be based on the argument that it is the best compromise energy policy that can be obtained from the Congress. It is my strong feeling that such an argument is wrong.

The introduction of this bill is intended to provide other Senators the opportunity to recognize that there is a better approach to our national energy policy. One approach—and not necessarily the best approach—is a simple extension of the existing program.

BETTER FOR NATIONAL INTEREST

There has been almost universal acceptance in this country that it is in our best national interest to obtain self-sufficiency in our own energy production, and thereby reduce our dependence on foreign produced oil. With nearly 40 percent of our total petroleum consumption coming from foreign sources, it is obvious that we have a long way to go.

The existing program of price controls does not move us toward energy independence as quickly as other programs might. However, it does maintain market prices for new stripper and high-cost recovery crude oil. This market-oriented aspect of the existing program has led to some important and striking results. In my own State of Kansas, for example, the oil industry reached a production peak in 1956. Oil production there has been declining in the 20 years since. This year in the first 10 months of 1975, that trend has been reversed. For the first time in all those years, we have had a reversal of the decline and an acutal increase in production.

That increased production could not and certainly would not have occurred without the tremendous market incentive that exists under the present system of controls.

The Energy Policy Act, S. 622, would go the opposite direction. It would establish price controls on new, stripper, and high-cost crude oil for the first time. The market incentive that has existed in these categories of production would be reduced.

The reduction of incentives would in turn reduce our domestic energy production.

If the crude price rollback is enacted and if there is any reduction in retail gasoline prices, then there would be a further increase in our petroleum consumption in this country. Greater consumption of petroleum here means a need to increase imports of foreign-produced oil. It would further increase our dependence on foreign oil production.

In short, S. 622, the energy policy bill, would strengthen the hand of the oil-exporting countries to further increase their prices and to force us to follow their dictates. A simple extension of the existing program does not reduce our dependence as quickly as I would like, but still it is far better than the policy contained in S. 622.

NO DELUSION OF CONSUMERS

An extension of the existing program does not attempt to give consumers the illusion that there is an easy or inexpensive way to achieve energy independence.

In my opinion, the supporters of the oil price rollback contained in S. 622 are attempting to convince the public that their bill will make it easier on consumers. In the long run, it clearly will not, since it will increase our dependence on foreign-produced oil, as I have already discussed. Even in the short term, the Energy Policy Act may not make things any easier for consumers.

As I understand, a 2.5 cents per gallon decrease in retail gasoline prices is expected to accompany the oil price rollback in the Energy Policy Act. However, the reduction in retail prices may in face be nowhere near 2.5 cents per gallon and may not even occur at all. This is because several factors have not been taken into consideration in calculating the 2.5 cents decrease. For example, there are the "banked costs" of refineries which are costs that refiners have simply saved and have not passed on through to consumers. There is also the problem that all cost increases resulting from the most recent price increase of the petroleum exporting countries have not been passed through in the retail price of gasoline. Third, there have been increases in the cost of transportation and other overhead expenses that would tend to offset the price rollback. Finally, as I understand, it was assumed that the average price of crude oil for the purpose of calculating the $2.5 cents retail price decrease is $8.75 per barrel. In actuality, the cost of crude oil on an average may not be that high, so that any rollback in crude oil prices would result in a retail price decrease of less than 2.5 cents.

So, all these factors tend to offset the predicted 2.5 cents per gallon retail price decline. In the end, consumers would not only find themselves more dependent on foreign oil, but would possibly also receive the nasty shock of not even receiving a small price decrease when they buy.

A continuation of the existing program makes no pretense of any kind of rollback or decrease in retail prices. It simply recognizes the fact that we are heavily dependent on foreign-produced oil and that if we are ever to achieve independence from the whims of those producers, we must greatly expand our own petroleum and energy production in this country.

Mr. President, there are numerous other things wrong with the Energy Policy Act which I have not mentioned. My discussion has been concerned only with the primary difficulty with this legislation. This is not to say that there are also some good provisions in S. 622. It is my hope that we might reenact those advantageous provisions at a later date.

But the primary purpose is to call attention to the fact that enactment of the Energy Policy Act would be a step backward from what we already have now. It is my hope that others in the Senate will recognize this fact and vote 622.

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

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

S. 2785

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

SECTION 1. This Act may be cited as the "Emergency Petroleum Allocation Extension Act of 1975".

EXTENSION OF MANDATORY ALLOCATION PROGRAM

SEC. 2(a). Section 4(g)(1) of the Emergency Petroleum Allocation Act of 1973 is amended by striking out "December 15, 1975," wherever it appears and inserting in lieu thereof "March 15, 1977,".

(b). The amendment made by this section should be effective as of December 15, 1975.

By Mr. TAFT:

S. 2789. A bill to amend title 38, United States Code, to provide counseling for certain veterans; to permit acceleration of monthly educational assistance payments to veterans; to revise the criteria for approval of nonaccredited courses; and for other purposes. Referred to the Committee on Veterans' Affairs.

Mr. TAFT. Mr. President, 2 years ago I cosponsored S. 2789 designed to remove structural inequities from the GI bill and insure that all veterans could have the help they need and to which they are rightfully entitled.

GI bill increases enacted last year provided vitally needed subsistence increases for veterans who were already enrolled in education and training programs. Those increases opened the doors to a few more who could not previously handle the cost.

But for all Congress has done for Vietnam veterans, it has not eliminated the inequities which still plague the millions of veterans who are unable to use the GI bill at all.

Educationally disadvantaged veterans, veterans in States with high cost schools, the 5 million veterans with families to support, veterans who are unsuited or unqualified for a 4-year college program—these young men are still denied the help they need and deserve.

Our responsibility to the Vietnam veteran is not fulfilled. Certainly we cannot say our commitment is ended if we simply help veterans who are already in school, while denying help to veterans who cannot get into school because tuition costs are too high.

We cannot say our obligation is paid if we restrict the effective use of the program to 4-year undergraduate schools, when the Nation so badly needs trade and technical specialists trained in 2-year programs and community colleges.

One of our concerns must be the 600,000 unemployed Vietnam veterans who could and should be training for productive and self-sufficient careers under a fully effective GI bill.

It is to repay the debt we owe the veteran of the Vietnam conflict, and to strengthen the Nation's future and aid its economic recovery that I am introducing accelerated entitlement legislation. An identical bill is already cosponsored by a majority of the House Veterans' Affairs Subcommittee on Education and Training and by 60 Members of the House.

Accelerated entitlement would enable a veteran in a full time program of instruction to receive a greater monthly subsistence allowance while reducing his total entitlement at a proportional rate. Accerleration is not a new spending program, it is a more effective utilization of an existing entitlement.

At a time of national economic crisis; the Vietnam-era GI bill has the same potential for economic recovery as did the World War II GI bill. The World War II GI bill deferred the impact of 17 million veterans on the labor force. It enabled veterans to phase into the labor force gradually with the educational, vocational, trade, technical, and professional skills required for secure, productive and rewarding careers. The career opportunities accorded by the World War II GI bill more than repaid the Government's initial investment in increased tax revenues.

Vietnam-era veterans denied effective readjustment assistance by the current GI bill are the most needy and those most affected by unemployment and the current economic situation. Because the GI bill denies them access to effective readjustment assistance, the Government must spend massive sums for unemployment compensation, public service employment, and welfare for unemployed and under-employed veterans. These expenditures are nonproductive and contribute very little to the veterans' readjustment and his preparation for a meaningful and productive role in society. These expenditures also contribute little to the Nation's economy recovery, while diverting billions that could be more effectively devoted to other critical social programs.

Acceleration of entitlement offers not only the opportunity for all Vietnam-era veterans to effectively use their existing GI bill entitlement, but also offers a cost effective, socially rewarding economic recovery program. Acceleration would make possible a 2-year trade, technical, vocational, or professional education for every veteran. Veterans with previous college education could complete their educations at private institutions or attend graduate programs. Acceleration would enable almost every veteran regardless of dependency status who is qualified to attend three school years—24 months—at almost every public school in America.

The scientific and technical revolution is creating millions of new career opportunities. The demand for veterans with technical skills is growing twice as fast as the demand for veterans with college degrees. The economic crisis has cost many veterans their jobs. The veterans hardest hit are the married "blue collar" veterans who never had an opportunity to use their GI bill benefits because of their family responsibilities and because the GI bill did not provide them effective access to the skills and training they needed.

Accelerated entitlement would enable veterans to enter training programs and acquire the skills necessary for meaningful, productive and secure careers, while easing the competition for the existing few jobs. Veterans could develop a cooperative program with their employers, whereby they could acquire a year or two of intensive specialized training under accelerated entitlement, and then return to their employer assured of a secure and rewarding career in that field.

Under the current GI bill a single veteran receives per year $2,430; little more than the average yearly tuition at a private trade or technical institution. Accelerated entitlement would not limit any veterans choice of education and training to a 2-year technical or vocational program, but would rather insure every veteran who sought a technical or vocational education a realistic opportunity to pursue it.

It is invalid to presuppose that every veteran desiring a college degree requires 4 school years of education. Over 20 percent of all Vietnam-era veterans have a year or more of college at the time of their discharge from the service. Accelerated entitlement would enable almost every qualified veteran to attend 3 school years at a public college or university.

The education at a private college or university that was available to all World War II veterans is out of reach for Vietnam-era veterans who must depend upon today's GI bill for their financial and educational support. The World War II GI bill paid for an education at Harvard and Yale. In 1948, 60 percent of the student bodies at our most prestigious universities were veterans. Today's GI bill amount to little more than half the tuition charged by Harvard and Yale. Vietnam veterans represent less than 2 percent of the student bodies at prestigious colleges and universities. Acceleration would enable many veterans who were drafted while in school to complete their education at a private institution.

The Veterans' Administration expressed some reservations about potential abuses of the accelerated entitlement program. Serious consideration was given to the VA's concerns and extensive safeguards were written into the accelerated entitlement program. The accelerated entitlement legislation requires that a veteran must be able to attain a recognized and predetermined educational, vocational, professional or technical objective within the time period benefits are accelerated. The legislation stipulates that benefits cannot be accelerated beyond twice the amount a veteran is normally entitled to receive. The bill contains safeguard provisions designed to preclude abuses of the program by unscrupulous nonaccredited institutions.

The accelerated entitlement legislation also provides comprehensive counseling and effective career guidance. The counseling would assist veterans in selecting occupational and training objectives in terms of personal needs, circumstances, characteristics, financial resources, dependent responsibilities, and other relevant factors. Counselors would assist veterans in selecting training institutions and developing educational, vocational, technical, or professional programs for accelerated entitlement.

Recognizing Presidential constraints upon new spending programs and the economic consequences of inflationary

spending, careful consideration was given to the cost and the economic impact of accelerated entitlement in developing the program and drafting the legislation. Accelerated entitlement is not a new spending program. Accelerated entitlement removes the structural impediments and inequities from an existing program; greatly enhancing the GI bill's ability to provide the most needy veterans effective readjustment assistance, while providing the Nation a cost effective, socially rewarding economic recovery program.

An earlier OMB cost estimate on an accelerated entitlement provision containing none of the safeguards and income restrictions included in this bill was $564 million. This I believe was based on questionable assumptions about the purpose and effect of accelerated entitlement, and was an overestimate of cost.

Applying VA and OMB cost calculation criteria to the accelerated entitlement legislation I have introduced, realistic figures would be $200 million for fiscal 1976 and a 5-year cost of possibly 550 million dollars in the VA budget. It should be emphasized that accelerated entitlement adds nothing new to the benefits a veteran is already entitled to; it only gives him effective and equitable access to them.

In addition, accelerated entitlement would substantially reduce Federal expenditures in unemployment compensation, welfare, and public service jobs for the 600,000 unemployed veterans. Therefore, the cost incurred by the VA budget for the productive accelerated entitlement program would be paid for in part by reductions in the budget costs of other departments and agencies.

Finally, Mr. President, I would note that the following distinguished organizations support accelerated entitlement: The American Legion, the Veterans of Foreign Wars, the National Association of Concerned Veterans, the Jewish War Veterans, the American Council on Education, American Association of Community and Junior Colleges, Great Lakes Colleges Association, Association of American Universities, the U.S. Department of Labor, and the AFL–CIO.

I ask unanimous consent that this bill be printed in the RECORD.

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

S. 2789

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1663 of title 38, United States Code, is amended to read as follows:

"§ 1663. Educational and vocational counseling

"(a) The Administrator may arrange for educational and vocational counseling for veterans eligible for educational assistance under this chapter. At such intervals as he deems necessary, he shall make available information respecting the need for general education and for trained personnel in the various crafts, trades, and professions. Facilities of other Federal agencies collecting such information shall be utilized to the extent he deems practicable.

"(b) Counseling provided under this section may include, but shall not be limited to assisting any veteran—

"(1) to select the occupation or training objective suitable to him in terms of his personal circumstances, characteristics, financial resources, dependent responsibilities, and other relevant factors;

"(2) to select the occupation or training objective which will provide him, after he has developed the required job skills, with reasonable opportunities for employment and with job satisfaction;

"(3) to select the educational institution that will effectively assist him in attaining his educational or vocational objective;

"(4) to develop a program of education that will lead to a recognized and predetermined educational, vocational, technical, or professional objective within the veteran's period of entitlement; and

"(5) by providing to him such other services, assistance, or readjustment counseling as the Administrator deems necessary or appropriate for his effective readjustment."

SEC. 2. Chapter 34 of title 38, United States Code, is amended by inserting immediately after section 1682 thereof following new section:

"§ 1682A. Acceleration of educational assistance allowance payments.

"(a) Notwithstanding any other provision of this chapter or chapter 36 of this title, a veteran pursuing a full-time program of institutional training under the provisions of this chapter may apply to the Administrator to have his monthly educational assistance allowance accelerated and have his entitlement charged proportionally.

"(b) The application of a veteran for acceleration shall include the following information:

"(1) The income of the veteran (including that of his or her spouse) less any Federal, State and local income taxes paid or payable for the academic year (or other comparable period of enrollment) in which the veteran is enrolled.

"(2) The amount of cash assets of the veteran.

"(3) The amount of financial assistance received by the veteran under the provisions of title IV of the Higher Education Act of 1965, as amended.

"(4) The amount of educational assistance available to the veteran under this title (including loan assistance under subchapter III of chapter 36 of this title).

"(5) The amount of any other scholarship, fellowship, grant or loan funds available to the veteran.

"(6) The amount of tuition and other educational expenses expected to be paid by the veteran for the academic year (or other comparable period of enrollment) in which enrolled.

"(7) The amount of living expenses (including expenses for dependents) expected to be incurred by the veteran for the academic year (or other comparable period of enrollment) in which enrolled.

"(c) Approval of the application shall be granted only if the veteran demonstrates need for the additional assistance allowance (based upon the information to be submitted pursuant to the provisions of subsection (b) of this section) and the veteran will attain his predetermined and identified educational, professional or vocational objective within his entitlement period. In no event shall the monthly assistance allowance payable to the veteran under section 1682(a)(1) of this title be increased by more than twice the amount he would otherwise be entitled to receive under that section."

SEC. 3. Subsections (b) and (c) of section 1776 of title 38, United States Code, are amended to read as follows:

"(b) Such application shall be accompanied by not less than two copies of the current catalog, bulletin or public statement which is certified as true and correct in content and policy by an authorized owner or official and includes the following:

"(1) Identifying data, such as volume number and date of publication.

"(2) Names of the institution and its governing body, officials, and faculty.

"(3) Names and titles of associated or previous institutions or corporate affiliations, governing body, officials, and faculty, that have been cited for or involved in illegal, unethical, deceptive or misleading practices or for violation of one or more provisions of this title.

"(4) A calendar of the institution showing legal holidays, beginning and ending date of each quarter, term, or semester, and other important dates.

"(5) Institution policy and regulations on enrollment with respect to enrollment dates.

"(6) Institution policy, regulations and specific entrance requirements for each program of education offered by such institution including all testing, counseling and admissions procedures, policies and standards designed to determine an eligible veteran's educational, financial, intellectual, and physical aptitudes and abilities to successfully complete a course of instruction and attain and maintain employment in the specific predetermined and identified educational, vocational, or professional field that is the objective of such program of education.

"(7) Institution policy and regulations relative to leave, absences, class cuts, make-up work, tardiness and interruptions for unsatisfactory attendance.

"(8) Institution policy and regulations relative to standards of progress required of the student by the institution (including defining of the grading system of the institution, the minimum grades considered satisfactory, conditions for interruptions for unsatisfactory grades or progress), a description of the probationary period, if any, allowed by the institutions, conditions for reentrance for those students dismissed for unsatisfactory progress, and a statement regarding progress records kept by the institution and furnished the student.

"(9) Institution policy and regulations relating to student conduct and conditions for dismissal for unsatisfactory conduct.

"(10) A course outline for each course for which approval is requested, showing subjects or units in the course, type of work or skill to be learned, approximate time and clock hours to be spent on each subject or unit, and a statement of recognition or acceptance by any prominent institutions, associations, agencies, and employers associated with the type of work or skill to be learned.

"(11) Detailed schedules of fees, charges for tuition, books, supplies, tools, student activities, laboratory fees, service charges, rentals, deposits, and all other charges.

"(12) Policy and regulations of the institution relative to the refund of the unused portion of tuition, fees, and other charges in the event the student does not enter the course or withdraws or is discontinued therefrom.

"(13) A detailed and accurate description of the available space, facilities, and equipment.

"(14) Policy and regulations of the institution relative to granting credit for previous educational training, to include policy, regulations, and procedures for evaluation, certification, or recognition of military training, education, skills, and experience.

"(15) Accurate and detailed completion rates for courses, and placement rates for graduates in the specific skill or work they were trained for.

"(c) The appropriate State approving agency may approve the application of such institution when the institution and its nonaccredited courses are found upon investigation to have met the following criteria:

"(1) The courses, curriculum, and instruction are consistent in quality, content, and

length with similar courses in public schools and private schools in the State, with recognized accepted standards.

"(2) There is in the institution adequate space, equipment, instructional material, and instructor personnel to provide training of good quality.

"(3) Educational and experience qualifications of directors, administrators, and instructors are adequate and in compliance with all applicable Federal and State laws and regulations.

"(4) The institution maintains a written record of the previous education and training of the eligible person and clearly indicates that appropriate credit has been given by the institution for previous education and training (including recognition and evaluation of relevant military training and experience) with the training period shortened proportionately and the eligible person and the Administrator so notified.

"(5) A copy of the course outline, schedule of tuition, fees and all other charges, regulations pertaining to absence, grading policy, rules of conduct and operation, and policy and regulations of the institution relative to refund of unused portion of tuition, fees, and other charges in the event that the veteran does not enter the course or withdraws or is discontinued therefrom, and provision for a full explanation and disclosure of all financial, legal or contractual obligations an eligible veteran would entail to be furnished the eligible veteran prior to entering into any legal or contractual or financial agreement with the educational institution or its representatives.

"(6) Upon completion of training, the eligible person is given a certificate by the institution indicating the approved course and indicating that training was satisfactorily completed.

"(7) Adequate records as prescribed by the State approving agency are kept to show attendance and progress or grades, and satisfactory standards of progress and conduct are enforced.

"(8) The institution is financially sound and capable of fulfilling its commitments for training.

"(9) The institution complies with all local, city, county, municipal, State and Federal regulations, such as fire codes, buildings and sanitation codes (with evidence of compliance to be supplied as is deemed necessary).

"(10) The institution does not utilize advertising, promotions, or sales techniques of any type which are erroneous or misleading, either by actual statement, omission, or intimation. The institution shall not be deemed to have met this requirement until the State approving agency has ascertained from the Federal Trade Commission whether (i) the Commission has issued an order to the institution to cease and desist from any such act or practice; (ii) if such an order has been issued, due weight has been given to that fact; and (iii) the Commission has given due weight to significant complaints or criticisms about the institution's advertising, promotions or sales techniques.

"(11) All advertising, promotion and sales techniques, claims and personnel employed by or representing the institution are in compliance with all applicable State and Federal licensing regulations and laws.

"(12) The institution does not exceed its enrollment limitations as established by the State approving agency.

"(13) The institution's administrators, directors, owners, and instructors are of good reputation and character.

"(14) The institution has and maintains a policy for the refund of the unused portion of tuition and fees, and other charges in the event the eligible person fails to enter the course or withdraws or is discontinued therefrom at any time prior to completion and such policy must provide that for tuition, fees, and other charges for a the amount charged to the eligible person portion of the course shall not exceed the approximate pro rata portion of the total charges for tuition, fees, and other charges (including any enrollment or registration fee or charge in excess of $40) that the length of the completed portion of the course bears to its total length.

"(15) All claims and statistics by the institution with regard to completion and placement rates for a specific course of instruction leading to employment in the specific skill or type of work learned shall not be false, erroneous or misleading, either by actual statement, omission, or intimation, and the appropriate State approving agency shall require such evidence of compliance as is deemed necessary.

"(16) Such other criteria as may be deemed necessary by the State approving agency."

SEC. 4. The table of sections at the beginning of chapter 34 of title 38, United States Code, is amended by inserting immediately after

"1682. Computation of educational assistance allowances."

the following:

"1682A. Acceleration of educational assistance allowance payments.".

By Mr. MOSS:

S. 2790. A bill to strengthen the penalty provisions of the Gun Control Act of 1968. Referred to the Committee on the Judiciary.

Mr. MOSS. Mr. President, one of the most alarming crises which we face in this Nation today is the dramatic increase in violent crimes being perpetrated upon our citizenry. We have enacted volumes of legislation in our never ending attempt to curtail the increase in crime. While some of this legislation has been effective to a degree it still has not deterred the criminal from committing his acts nor has it caused a decrease in the use of firearms during the commission of crimes, making them violent crimes. Most of us recognize the need to eliminate the use of firearms by criminals. Many of my colleagues firmly believe that the only way to eliminate the use of firearms by criminals is to limit manufacture and accessibility of those firearms.

Mr. President, I have not subscribed to that position and I do not support it. Such legislation will not eliminate the use of firearms by criminals. There are already too many firearms which are privately owned to be able to effectively control anything but the sale of new firearms. Controlling the sale will have little or no impact upon the accessibility to firearms by the criminal; he need only obtain one already available to avoid registration. Firearms last a long time, so those that are presently available will continue to be so for at least another 50 years. In addition, there are many States which do not believe that there is a need to patrol the sale of guns within their jurisdiction, and those States ought to have the opportunity to determine the license and registration requirements which should apply to their own residents.

There is, however, Mr. President, an alternative to the requirements of license and registration, an alternative which will effectively deter the use of firearms by the criminal during the commission of a crime. That is to make certain that anyone using a firearm in the commission of a crime will automatically receive additional incarceration for such use. The legislation which I am introducing will serve to provide an additional penalty of not less than 5 nor more than 10 years for anyone who uses a firearm during the commission of a crime. It further provides that anyone who is convicted of using a firearm a second time will receive an additional sentence of not less than 10 nor more than 25 years. This legislation also provides that anyone using a firearm in the commission of a crime shall not be entitled to a suspended sentence nor probation for the period of the additional sentence.

Mr. President, with the enactment of this legislation, anyone considering commission of a crime will certainly think twice about automatically having to serve an additional sentence of 5 to 25 years because he used a firearm in the commission of his crime. No other legislation will be effective to reduce the use of firearms by criminals during the commission of a crime.

Mr. President, I urge the earliest consideration and passage of this bill for the benefit and protection of the citizens of this great Nation.

By Mr. ROTH:

S. 2791. A bill to require approval by the Director of the Office of Management and Budget of the use of new or revised forms by the Internal Revenue Service. Referred to the Committee on Finance.

ESTABLISHING OVERSIGHT WITH RESPECT TO IRS FORMS: A STEP TOWARD LESSENING THE PAPERWORK BURDEN

Mr. ROTH Mr. President, in my frequent meetings with groups of small businessmen in my home State of Delaware, the subject of Government redtape and paperwork is invariably high on the list of their problems. Indeed, the myriad number of Government forms to be filed, records to be maintained, and survey questionnaires to be answered are having a cumulative impact that is overwhelming for many of the small business men of America.

Decisive remedial action by the Congress in this problem is long overdue. I am encouraged that a Federal Paperwork Commission has been established with a broad mandate to investigate and develop some meaningful proposals for reform.

However, the Commission's work has only just begun and will not be completed for approximately 2 years. In the interim, we should move forward to take whatever steps are now feasible to begin turning back this paperwork tide.

The Federal agency which imposes by far the largest amount of paperwork requirements is the Internal Revenue Service. We recently heard testimony from the Office of Management and Budget, at joint hearings of two Government Operations Subcommittees, concerning this overall problem. I was impressed with the OMB estimate that "the Internal Revenue Service alone generates more than half the Federal Govern-

ment's information requirements." This certainly is borne out by my contacts with Delaware businessmen: IRS, along with OSHA, appears to be the most troublesome source of paperwork requirements. Yet, IRS is one of the few Federal agencies that are exempt from the provisions of the Federal Reports Act. The act requires, in part, that Federal forms and information requests intended for 10 or more persons must be reviewed and cleared by the Office of Management and Budget. Thus, unlike other agencies, IRS tax forms are not subject to review by the OMB or any other agency outside the IRS itself.

The exemption was written into the law when the Federal Reports Act was originally enacted in 1942. The committee report at that time gave essentially two reasons for the exemption: First, the public's confidence in the confidentiality of their tax returns might be disturbed; and, second, few complaints had been received from businessmen in connection with IRS forms. Neither of these objections appears to be valid today. The confidentiality argument relates to another provision of the act which authorizes sharing of information among Federal agencies.

With respect to the second reason, there is clear evidence that businessmen are having problems with both the number and complexity of IRS forms.

Congress, in its wisdom, perceived the potential for Government-generated red tape when it enacted this law more than 30 years ago. There is no longer any justification for exempting the Internal Revenue Service from the single statutory provision we now have for paperwork oversight in the Federal Government. I am, therefore, introducing legislation today that would remove the IRS exemption from the forms clearance requirements of the Federal Reports Act. The exemption from the act's other provisions, such as exchanging information with other agencies, would remain intact.

I want to stress that this proposal should not be interpreted as an overwhelming vote of confidence in the OMB's performance in this area, to date. I and other members of the Government Operations Committee have made it clear to the OMB that we expect a far tougher exercise of their oversight responsibilities and we have been assured by the present leadership of OMB that they intend to vigorously carry out that authority.

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

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

S. 2791

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 7805(c) of the Internal Revenue Code of 1954 (relating to preparation and distribution of regulations, forms, etc.) is amended by adding at the end thereof the following new sentence: "No form prepared or revised after July 1, 1976, may be distributed unless it has been approved by the Director of the Office of Management and Budget.".

SEC. 2. (a) Section 3507 of title 44, United States Code, is amended by inserting after "Treasury Department" in the second paragraph the following: "(except that the provisions of section 3509 shall apply to the Internal Revenue Service)".

(b) The amendment made by subsection (a) shall take effect on July 1, 1976.

ADDITIONAL COSPONSORS OF BILLS AND RESOLUTIONS

S. 123

At the request of Mr. INOUYE, the Senator from South Carolina (Mr. THURMOND), the Senator from Washington (Mr. MAGNUSON), and the Senator from Alaska (Mr. GRAVEL) were added as cosponsors of S. 123, a bill to amend the Social Security Act.

S. 872

At the request of Mr. HATFIELD, the Senator from Louisiana (Mr. JOHNSTON) was added as a cosponsor of S. 872, to provide that certain State conservation publications shall qualify for second-class mail rates.

S. 2535

At the request of Mr. EAGLETON, the Senator from Ohio (Mr. TAFT) was added as a cosponsor of S. 2535, a bill to provide for a program of distribution of inexpensive books to schoolchildren.

S. 2635

At the request of Mr. HARTKE, the Senator from Texas (Mr. BENTSEN) and the Senator from Kentucky (Mr. HUDDLESTON) were added as cosponsors of the bill (S. 2635) to amend title 38, United States Code, to modify the pension program for veterans of the Mexican border period, World War I, World War II, the Korean conflict, and the Vietnam era, and their survivors, and for other purposes.

S. 2677

At the request of Mr. BIDEN, the Senator from South Dakota (Mr. ABOUREZK) was added as a cosponsor of S. 2677, the Regulatory Agency Responsibility Act.

S. 2742

At the request of Mr. EAGLETON, the Senator from Delaware (Mr. BIDEN) and the Senator from Rhode Island (Mr. PASTORE) were added as cosponsors of S. 2742, a bill to dedicate the Chesapeake and Ohio Canal National Historical Park to Justice William O. Douglas.

SENATE RESOLUTION 319

At the request of Mr. CURTIS, the Senator from Maryland (Mr. BEALL) was added as a cosponsor of Senate Resolution 319, relating to the occupation of certain Baltic nations by the Soviet Union.

SENATE CONCURRENT RESOLUTION 77

At the request of Mr. CURTIS, the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of Senate Concurrent Resolution 77, relating to the authority of the Federal Trade Commission to prescribe rules preempting State and local laws.

SENATE JOINT RESOLUTION 150

At the request of Mr. HELMS, the Senator from Arizona (Mr. FANNIN) was added as a cosponsor of Senate Joint Resolution 150, to establish the 4th of July as Independence Day.

SENATE RESOLUTION 329—SUBMISSION OF A RESOLUTION RELATING TO REIMBURSEMENT OF COSTS OF AIR TRAVEL ACCOMMODATIONS

(Referred to the Committee on Rules and Administration.)

Mr. HASKELL submitted the following resolution:

S. RES. 329

Resolved, That it is the purpose of this resolution to prohibit Members of the Senate, their employees, and employees of standing committees and select committees of the Senate from being paid or reimbursed for the difference between the cost of first-class accommodations with respect to air travel and the cost of other air travel accommodations, except for reasons described in Section 2, and to make possible a reduction in the amount of funds necessary to defray travel expenses of such Senators and employees as a result of such prohibition.

SEC. 2. Until otherwise provided by law, a Senator, an employee of any such Senator, or an employee of any standing committee or select committee of the Senate, may not be paid or reimbursed for the difference between the cost of any first-class accommodation with respect to air travel, and the cost of any other accommodation with respect to air travel, unless—

(1) no other accommodations are available;

(2) first-class accommodation is necessary because of the health of the Senator or employee involved;

(3) in the case of foreign travel, only first-class accommodation meets satisfactory standards of sanitation, health, or comfort; or

(4) the cost of first-class accommodation provided by the air carrier involved does not exceed the cost of other accommodations provided by other air carriers.

SEC. 3. The Committee on Rules and Administration shall prescribe rules to carry out the provisions of this resolution.

Mr. HASKELL. Mr. President, today I am submitting a resolution which may require some to give up an item of comfort, but one which will curb unnecessary congressional expense. The legislation is very simple; it prohibits Senators and Senate employees when traveling on official business from being reimbursed for first-class air fare. The resolution does provide for exceptions in the event that other accommodations are not available or the health of the individual requires that they travel first class.

One of the greatest concerns of Coloradans, as well as many Americans across the country, is excessive Government spending. Reduction of our massive Federal deficit and control of Federal expenditures is vital to our economic health. Mr. President, there is an old adage that "charity begins at home;" I would like to add that savings should also begin at home. First-class air fare is a luxury that Members of Congress and their staffs should not indulge in at taxpayers' expense.

The legislation that I am introducing today will bring the Senate under the same rules that are presently in force under General Services Administration regulations. Should the individuals desire first class, they would have to pay the difference between first class and coach.

When this legislation is enacted into

law we will not only save taxpayers money, but will demonstrate a public example far more significant than dollar figures.

SENATE RESOLUTION 330—ORIGINAL RESOLUTION REPORTED AUTHORIZING SUPPLEMENTAL EXPENDITURES BY THE COMMITTEE ON THE JUDICIARY

(Referred to the Committee on Rules and Administration.)

Mr. EASTLAND, from the Committee on the Judiciary, reported the following original resolution:

S. RES. 330

Resolved, That Senate Resolution 72, 94th Congress, agreed to July 26 (legislative day, July 21) 1975, is amended as follows:

(1) In section 2, strike out "$4,057,700" and insert "$4,069,700".

(2) In section 11, strike out "$283,300" and insert "$295,300".

AMENDMENTS SUBMITTED FOR PRINTING

SUSPENSION OF DUTIES ON CERTAIN SILK—H.R. 7727

AMENDMENTS NOS. 1265 THROUGH 1270

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

Mr. CURTIS submitted six amendments intended to be proposed by him to the bill (H.R. 7727) to extend for an additional temporary period the existing suspension of duties on certain classifications of yarns of silk.

AMENDMENTS NOS. 1278 AND 1279

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

Mr. HARTKE submitted two amendments intended to be proposed by him to the bill (H.R. 7727), supra.

AMENDMENT NO. 1280

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

Mr. CHURCH (for himself, Mr. RIBICOFF, Mr. KENNEDY, and Mr. WILLIAMS) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 7727), supra.

AMENDMENT NO. 1281

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

Mr. CHURCH (for himself, Mr. RIBICOFF, Mr. HUDDLESTON, and Mr. WILLIAMS) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 7727), supra.

AMENDMENT NO. 1288

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

Mr. NELSON submitted an amendment intended to be proposed by him to the bill (H.R. 7727), supra.

INCREASED LOANS FOR MOBILE HOMES

AMENDMENT NO. 1271

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

Mr. BENTSEN submitted an amendment intended to be proposed by him to the bill (H.R. 9852) to amend section 2 of the National Housing Act to increase the maximum loan amounts for the purchase of mobile homes, and for other purposes.

FEDERAL EMPLOYEES' POLITICAL ACTIVITIES ACT—H.R. 8617

AMENDMENTS NOS. 1272 THROUGH 1277

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

Mr. FONG submitted six amendments intended to be proposed by him to the bill (H.R. 8617) to restore to Federal civilian and Postal Service employees their rights to participate voluntarily, as private citizens, in the political processes of the Nation, to protect such employees from improper political solicitations, and for other purposes.

SOCIAL SECURITY UNIFORM REVIEW PROCEDURES—H.R. 10727

AMENDMENT NO. 1282

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

Mr. PELL (for himself, Mr. SCHWEIKER, and Mr. KENNEDY) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 10727) to amend the Social Security Act to expedite the holding of hearings under titles II, XVI, and XVIII by establishing uniform review procedures under such titles.

HIGHER EDUCATION ACT AMENDMENTS OF 1975—S. 1196

AMENDMENTS NOS. 1283 AND 1284

(Ordered to be printed and referred to the Committee on Labor and Public Welfare.)

Mr. HUMPHREY submitted two amendments intended to be proposed by him to the bill (S. 1196) to amend the Higher Education Act of 1965 to establish a student internship program to offer students practical involvement with elected officials on local and State levels of government and with Members of Congress.

PHASEOUT OF GOVERNMENTAL INDEMNITY—S. 2568

AMENDMENT NO. 1285

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

Mr. BUMPERS submitted an amendment intended to be proposed by him to the bill (S. 2568) to amend the Atomic Energy Act of 1954, as amended, to revise the method of providing for public remuneration in the event of a nuclear incident, and for other purposes.

AMENDMENT NO. 1286

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

Mr. HATHAWAY submitted an amendment intended to be proposed by him to the bill (S. 2568), supra.

PREVAILING FEES OF MEDICARE—H.R. 10284

AMENDMENT NO. 1287

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

Mr. CRANSTON (for himself, Mr. STONE, Mr. RIBICOFF, Mr. PHILIP A. HART, and Mr. PELL) submitted an amendment intended to be proposed by them to the bill (H.R. 10284) to amend title XVIII of the Social Security Act to assure that the prevailing fees recognized by medicare for fiscal year 1976 are not less than those for fiscal year 1975, to extend for 3 years the existing authority of the Secretary of Health, Education, and Welfare to grant temporary waivers of nursing staff requirements for small hospitals in rural areas, to maintain the present system of coordination of the medicare and Federal employees' health benefit programs, and to correct a technical error in the law that prevents increases in the medicare part B premiums.

PHASEOUT OF GOVERNMENTAL INDEMNITY—H.R. 8631

AMENDMENTS NOS. 1289 AND 2290

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

Mr. HATHAWAY submitted two amendments intended to be proposed by him to the bill (H.R. 8631) to amend the Atomic Energy Act of 1954, as amended, to provide for the phaseout of governmental indemnity as a source of funds for public remuneration in the event of a nuclear incident, and for other purposes.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 1237

At the request of Mr. MCINTYRE, the Senator from Maine (Mr. HATHAWAY), the Senator from South Dakota (Mr. ABOUREZK), and the Senator from Nevada (Mr. CANNON) were added as cosponsors of amendment No. 1237, the Solar Energy Equipment Tax Credit Amendment of 1975, intended to be proposed to the bill (H.R. 7727) to extend for an additional temporary period the existing suspension of duties on certain classifications of yarns and silk.

AMENDMENT NO. 1253

At the request of Mr. BROOKE, the Senator from Oregon (Mr. PACKWOOD) was added as a cosponsor of amendment No. 1253, intended to be proposed to the bill (H.R. 7727), supra.

ADDITIONAL STATEMENT

MAKING A PROFIT—VICE OR VIRTUE?

Mr. HELMS. Mr. President, a great British statesman once remarked that—

It is a socialist idea that making profits is a vice. I consider the real vice is making losses.

The words are those of the late Sir Winston Churchill, who fought unsuccessfully to save Britain from the drudgery of socialism. At a time in our national history when the business community is maligned by self-appointed interest groups, and blanketed by Government edicts which stifle the economy, these words have an ominous and timely ring.

They are echoed by Mr. Baine P. Kerr,

general counsel and chairman of the executive committee of the Pennzoil Co. In an address on Government-industry relations, delivered before the joint meeting of the Commercial Development Association on September 29, 1975, Mr. Kerr rightly warns that the survival of our free enterprise system depends in large part upon a change of the present relationship between government and business.

Mr. President, I would like to share Mr. Kerr's eloquent and incisive address with my colleagues, and ask unanimous consent that it be printed in the RECORD.

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

GOVERNMENT/INDUSTRY RELATIONS

(By Baine P. Kerr)

We are reminded rather incessantly these days that our republic will have been in existence next year for two hundred years. By many standards, this is a rather insignificant period of time. Nevertheless, in comparison to the brief life of the great Athenian Republic which served as the principal inspiration for our own, it is indeed an impressive span.

Since democracies are so fragile and so subject to abuse, a long look at where we began, where we have come, and most importantly, where we are going, could be a most valuable exercise.

There are many unusual aspects of this country's history. One of the most significant of these is the unique way in which a new land was settled by wave after wave of emigrant peoples of diverse origins who created a great cohesive nation. I can think of no true parallel on such a grand scale.

It is interesting to consider what brought all of these peoples to these shores, and what unifying forces they shared in common. In the broadest sense, there appear to be two basic factors of such overwhelming importance as to cause ordinary and extraordinary people alike to uproot themselves from their homes, families and friends and come to a distant and unknown land.

First of all, there was the hope that in this new land there would be the opportunity to improve one's condition in life, or at least that of one's descendants. Whether the emigrant was the second or third son of landed English gentry or an ordinary workman or peasant, there was the aspiration to be something more and to live a better life. It may not be popular today in some circles to aspire to material benefits. But our forebears certainly did. They were willing to suffer the severest of hardships and to take the gravest of risks to achieve a better life, in a material as well as in an aesthetic or spiritual sense.

The other factor of overriding importance in most cases was the fundamental desire to escape an oppressive society or government. For Puritans and Catholics alike; for Quakers and Presbyterians; for the victims of Russian pogroms and Nazi concentration camps; for Hungarians, Cubans and Vietnamese, this country has represented a refuge from oppressive and destructive governments throughout its history. The founders of this country were well aware of the evils and dangers of governmental oppression. The most striking thing about the Declaration of Independence and the Constitution are their explicit concern for the rights of individuals vis-a-vis their own government. In no other governmental charter had these rights been more clearly defined. In no other form of government had such safeguards been established as those which provided for a clear separation of powers, an express statement of individual rights and an independent judiciary to define and enforce such rights. Even the mother country, Great Britain, and its other North American descendant, Canada, do not provide such explicit constitutional safeguards. And, to its credit, the independent judiciary has ably discharged its duty to ensure that individual rights are not eroded or ignored by an all powerful government.

THREAT TO LIBERTY

This country was founded on the principle that governmental functions should be limited to the absolute minimum and with full recognition that the government itself is the single greatest threat to individual liberty and happiness. It has long been recognized in this country that governmental purposes or objectives may appear to be beneficial or as we now say "in the public interest" but that they can nevertheless endanger our most important and fundamental liberties. As Justice Brandeis pointed out "experience should teach us to be most on our guard to protect liberty when the government's purposes are beneficent. Men born to freedom are naturally alert to repel invasion of their liberty by evil-minded rulers. The greatest dangers to liberty lurk in insidious encroachment by men of zeal, well-meaning but without understanding."

Considering this long history of unswerving devotion to individual rights and a high degree of skepticism as to governmental powers, it is difficult to understand what has been occurring in this country over the past decade and where we seem to be heading. The expansion of governmental functions has proceeded at an astounding pace over this recent period with no signs of abatement. This expansion has been marked by a curious paradox—the ambivalence of political activists nominally called "Liberals". This group can be credited with successfully advocating policies diluting governmental authority with respect to individuals. Regrettably, there has been little encouragement or development of that essential ingredient of a democratic society, individual responsibility. The result is the social disorder with which we are all familiar.

When these activists have turned their attention to the economic order, however, their purpose has been to strengthen the role of the government vis-a-vis the private economic unit. Again, one must conclude that they have achieved their purpose. Private business, private enterprise, private initiatives have been subjected to governmental controls at a truly dizzying pace. Over the last five years governmental spending in the United States averaged more than 22% of the gross national product.* No other major western country's rate exceeded 20% and Japan's was below 9%. In the '50s the U.S. led all the world by a huge margin in gross national product per capita. Now, however, we stand in 7th place.

PRODUCTIVE CAPACITY DIMINISHED

It is no accident that as governmental activities have increased the relative productive capacity of this country has diminshed. We are told, furthermore, that we are now entering upon a new era of less and less rather than more and more, and that we must be satisfied with a lower standard of living and less opportunity for advancement. Is it not time for thoughtful citizens to ponder the unhappy thought that to the extent that our system is distorted in the direction of government-controlled economies, the resulting deterioration parallels the experience of socialist states? And is it not time to give consideration to whether we wish to be led further in the direction of such intense governmental domination of our economic system?

Kevin Phillips theorizes that, as capital accumulation becomes increasingly difficult in a mature, highly-industrialized society, we are seeing the rise of a new knowledge/communications / education / bureaucracy power complex. Once in authority, this group finds how easy it is to control votes and maintain job security by subsidizing consumption. The economic impact of these new influences is to shift resources and expenditures away from business and national defense to welfare—bureaucratic—education—research projects. It is contended that the surge of these expenditures and the transition to a service economy have been major ingredients in soaring taxation and inflation.

Whatever the cause, however, we do know that the governmental sector of our economy has been growing at the expense of the private sector, and that private enterprise has become increasingly subject to governmental supervision and control. Governmental enterprise, financed by deficit spending, is ranging far and wide while private enterprise, constrained by the necessity of financing its operations out of profits and limited by governmental fiat, is under constant attack for failure to accomplish more.

WHAT SHOULD BUSINESS EXPECT?

Assuming that at this stage of our national history we do not intend to consign our economic system to the ideological tinkering of what is, we hope, an activist minority, we can properly inquire, what should business expect of its government? In what ways can government and business conduct their respective affairs for the common good? I would like to suggest a few changes in attitude or approach which I believe would be for the benefit of us all.

First of all, those in government and in business alike should understand how our free market system operates and take pride in it. They should support that system as the only system which allocates people and resources by individual free will and choice rather than by an autocratic central authority. They should be mindful that we cannot maintain a free society in an ordered economy. They should endeavor to make that system work effectively and not to subvert it for individual gain or to hobble it with unnecessary burdens and restrictions.

Let me be specific. For some years now we have had governmental controls over petroleum prices and, for a somewhat lesser period, controls over many other aspects of the petroleum business. Since the Phillips Decision in 1954, we have had federal control over the well-head price of natural gas. While free market forces have not been permitted to operate with respect to domestic gas and oil, competing energy sources, foreign and domestic, have not been subject to price control. The domestic coal and nuclear energy industries have, however, been subject to other forms of severe governmental restraints.

What do we have to show for these governmental interventions into a free market economy? First of all, we have found it irresistibly attractive to squander our once plentiful supplies of irreplaceable natural gas. Because we had no free inter-fuel competition, because the price of gas was governmentally imposed at a level far below its minimum value as a source of heat, domestic coal and domestic oil were shouldered aside in the mad rush for the bargain counter. We heedlessly used up the cheap, readily available supplies of natural gas and let our coal and oil resources languish.

Since we established governmentally all energy values at the lowest common denominator, the controlled price of natural gas, we had no incentive or practical ability to develop alternative, but more expensive, energy sources.

DAMAGE RESOURCE BASE

At the same time regional political considerations and, sad to say, private gain for

* This percentage increased to 33% in 1974, according to a recent study by Arthur Andersen & Co., and, were it properly accounted for, probably exceeded 40%.

some individuals and companies, dictated the virtually unlimited importation of what were then cheap foreign petroleum products without any regard to the damaging consequences to our domestic energy resource base.

In a fool's paradise of both artificially cheap natural gas and temporarily cheap foreign oil we stepped up our profligate use of energy. We built our cities, our cars and our industries upon the implicit assumption that there would always be plenty of fuel and its cost would always be trifling. Having been slow to perceive our mistakes, we have been even slower and more foolish in doing anything about them.

It is clear, I think, that no matter what course we had pursued we would have had at some point to face up to higher fuel costs and to the need to develop non-fossil sources of energy. These adjustments, however, would have been far easier and less painful if we had avoided special interest and politically-motivated governmental intervention. We might still not have all the natural gas we would like to have, but higher prices would have maintained our level of production and at the same time reduced discretionary consumption. Coal production would have increased, as would have nuclear generation of electricity. An effective oil imports program would have kept domestic crude oil production at an optimum level.

In spite of the obvious ill effects of governmental intervention in the oil and gas industry, however, we hear nothing but continued demands for more government price controls, and more governmental allocation of raw materials, supplies and customers. Our political leaders seem deathly afraid of letting our economic system function in its normal way. And yet any impartial observer knows that the free market economy over any period of time does a far better job of allocating resources and people than any governmental hierarchy.

In addition to understanding and believing in our traditional free market economy, we must recognize the direct relationship between laws and governmental policies and an economic and political climate conducive to the growth and development of our economy.

POWER TO DESTROY

The tax laws, for example, can encourage and facilitate the formation of capital necessary for industrial expansion, or they may make business expansion impossible. Our first Chief Justice, John Marshall, told us long ago that the power to tax is the power to destroy. Nevertheless, even though it is generally conceded that industry must make unprecedented capital investments over the coming years, there are many who believe the oil industry, and business generally, should be heavily taxed to finance new projects for the poor and the unemployed. We may well ask where America would be today, how many more poor and unemployed there would be, if such a punitive tax policy had in past years prevented basic capital formation.

There are some who feel that the government should appropriate billions to create public jobs for the unemployed. Others feel that we cannot do without a whole variety of costly social or welfare or experimental educational programs. All of these new programs, and there seems to be no end to them, are to be piled on top of our already enormous social welfare budget. All will require deficit financing. None will add to this country's productive capacity in any lasting or meaningful way. In most cases the new program fails to solve the basic problems to which it is addressed.

It is difficult to imagine the forefathers settling for such a permanent welfare culture. Surely they would have recognized that just as it is possible for the government to engage in direct political tyranny, it can engage in economic oppression, and as well, bureaucratic authoritarianism over citizens made overly dependent on governmental welfare—in short, free citizens who have lost their freedom from the government because of governmental policies.

Our system was designed by a free and confident people. It has worked and will work. But we have unwisely allowed the role of the government to be expended beyond the extent of its capability.

We need real progress, real solutions. We need to encourage production and not stagnation. We need jobs—real jobs, permanent jobs. We need social justice, too, but we cannot buy it with governmental make-work and handouts. We need laws to protect the rights of all our citizens, and a healthy economy to make those rights meaningful.

GREAT SURGE OF BUSINESS

If we were to set out on a program to restore our domestic energy resources base in the quickest possible time, a program which would unshackle the oil, coal and related industries to do the job they are capable of doing, we would not only solve a lot of our energy problems but many other problems as well. A great surge of productive business activity would reach every segment of our economy and every element of our society. We would see real employment gains, and the opportunity for lasting social progress in the traditional American pattern.

I recently saw the observation of a well-known economist to the effect that we should not be so worried about deficit spending—after all, businesses incur long-term indebtedness to finance their needs, so why shouldn't the government do the same thing? The parallel is not a persuasive one. Businesses must pay back their indebtedness or cease their operations. Businesses do not borrow money to finance projects unless it seems reasonably sure that these capital expenditures will increase production or efficiency, or both. Unfortunately, the great bulk of governmental spending is not related to the development of the economy except in a most tangential manner, and little thought is given to the ultimate repayment of the debt.

I would say that the United States is already heavy on debt. Frequent and massive incursions into the money markets by governmental bodies tend to crowd out private borrowers and drive up interest rates. We have mortgaged our nation's future rather heavily already, and serious thought should be given to creating some discipline, some control, over governmental spending.

I happen to live in a state whose constitution requires that every appropriation must be accompanied by a certification of the state's chief financial officer that there will be adequate government revenues to meet the expenditures. When a legislative body cannot vote for expenditures without at the same time enacting the necessary revenue measures to foot the bill, clear choices must be made. Some approach to such a system at the federal level seems long overdue if we are to avoid financial debacles such as those faced by Italy, The United Kingdom and New York City.

If business is to thrive, if our economy is to be healthy and productive, and if we are to move ahead in making possible a better life for all our citizens, it is essential that we adopt governmental policies that create a favorable climate for business development. Those in government should not be embarrassed about considering openly and most carefully the effect of any proposed governmental action upon business. We must have more concern for the producers of goods and services, and not merely assume that no matter what burdens of restrictions are imposed the horn of plenty will always be full.

CHANGE IN ATTITUDE

A third change that would be most constructive would be a change in attitude of people in government and in business toward one another. Instead of mutual distrust, there must be mutual respect and better understanding.

The entire Watergate episode, following on the heels of the most unpopular war in this country's history, has had profound effects. On the positive side, it has demonstrated that our constitutional form of government can and will handle a crisis in government of awesome proportions. It also showed us some of the dangers of an overly powerful central government.

On the negative side, it created doubts and mistrust of all in a position of authority, including both industry and government. Because some apparently unwarranted charges turned out to be all too true, many people today are suspicious of all leaders, and are all too willing to believe the worst of everyone.

Not since the McCarthy days have we seen such a heyday for innuendo, half truths and character assassination.

Ambitious demagogues in public life, in partnership with self-appointed "public interest" representatives, have inundated the American public with sensational accusations, primarily against business, which are in most cases either wholly false or a gross distortion of the truth. These accusations extend also to the regulatory agencies and others involved in the administration of government. The only safe thing for someone in government is to take the hard line against business, even if there is no sound basis for the action taken.

Business has not reacted effectively to this concerted attack. Fragmented and embarassed by revelations of improper or at least questionable uses of corporate funds at home and abroad by a number of major corporations, business has ducked for cover in the hope of riding out the storm.

Responsible governmental employees are often subjected to harassment and vilification by committee or subcommittee chairmen on the hill, as well as to leaks by dissident staff members.

OBJECT OF THIS GAME

The real object of this game is publicity, coverage, public name identity, whatever one wishes to call it. This is the stuff of which political careers are made. In the case of the self-appointed "public interest" figures, this is the stuff of which a captive law practice or other means of livelihood is created. And the press, of course, contributes by its selection of the "news" it chooses to feature, and the irresponsible way in which these stories are often written. It is no wonder that governmental employees who are subject to these pressures are unable to function effectively and responsibly.

The ugliest feature of all this, however, is the vitriol, the invective and the appeal to mob passion. The power of government is truly awesome. When it is turned against an individual or a private business, it is difficult indeed to take the heat. No matter how strongly one may feel that his actions or that of the company he represents are perfectly right and proper, the sanctions that can be governmentally imposed, including criminal sanctions, are such as to crumble even the stoutest resolve.

I used to wonder why it was that the defendants in the Moscow show trials invariably admitted to the most egregious crimes. When I read "Gulag Archipelago", it became much clearer, however. We are not quite there yet, but the way in which executives of the major oil companies have been commanded to appear before some of the senate and congressional committees, not in many instances to provide information or a better understanding, but to be subjected to abuse and unjustified charges, gives one the uneasy feeling that our particular brand of intimidation is not so different after all.

I happen to believe, based on a number of years experience, that the general level of

honesty and integrity among both business and governmental employees and executives is quite high. In both cases I have found an equal dedication to this country's ideals, and a genuine desire to advance the public welfare. Any exceptions to this rule are just that and form no basis for destroying our whole economic and governmental system.

Let us dedicate ourselves to cooling the rhetoric and the invective. Let us make rational decisions based on the facts and not for political gain. Let us make our system work better rather than destroy it. If we do not and have nothing left but a retreat to socialism, we will have turned our back on everything this country was created for those two hundred years ago.

THE LIMITATIONS OF DETENTE

Mr. HARRY F. BYRD, JR. Mr. President, recent events and forthcoming decisions have created a climate favorable for a major reexamination of the global interests of the United States.

Arms control negotiations are under way with the Soviet Union.

The Senate and the House have approved appropriations for the Department of Defense and may soon consider funds for military and economic assistance to other nations.

The dismissal of Secretary Schlesinger has renewed the ongoing debate about détente and all of its ramifications.

And of course all of this is taking place against the background of continuing discussion of our foreign policy in the wake of Vietnam.

I think a full review of our defense posture and relationships with the rest of the world is very much in order. We must conduct this study of our policies and commitments in the perspective of history and with a view to defining more clearly our national purposes.

Moreover, we must debate these issues with full awareness of the restraints imposed by the capacities of the national economy and national will.

Secretary of State Kissinger has from time to time suggested that the Congress interferes unduly with foreign policy, and that this interference undermines the flexibility needed by the executive branch in conducting diplomacy.

Perhaps the Secretary does not have all the flexibility that he would like. So be it: that is part of the American system.

Congress has a role to play in the conduct of foreign relations. To cite only the most obvious points, the Senate must ratify treaties and the Congress as a whole must approve any commitment of funds.

And beyond the strictly legal requirements, there is the important point that in an open society, no foreign policy can be successful which lacks a consensus. Surely recent history has taught us that.

There can be no scheming Metternich, no juggling Talleyrand, in the United States. This country's ability to deter aggressors and to negotiate with firmness depends in no small degree upon our national unity of purpose.

But we cannot impose unity, as totalitarian governments do. Instead, we must arrive at our foreign policy—I speak of policy now, not the mechanics of its execution—through democratic means.

At the outset of the foreign policy debate, let me state my conviction that the United States must not permit disillusion in Southeast Asia to cause a withdrawal from the world. As a great power, America has major responsibilities.

At the same time, bitter experience has taught us that we can be neither a world policeman nor a world Santa Claus.

So we must reject both isolationism and adventurism. A reasonable middle course must be found.

As we seek this middle course, let us look briefly at the world today.

Today the free world is beset by troubles, with weakness and disorder apparent both between nations and within nations.

In Asia, the United States is being called an uncertain friend. South Korea, the Philippines, Taiwan and Japan are questioning our Nation's resolve.

In Europe, the NATO alliance is confronted by one of the most awesome military machines ever created, the Warsaw Pact. At the same time, the cohesiveness of NATO is threatened because of the tragic situation on Cyprus and the tumultuous revolution in Portugal,

In the Middle East, the United States has been instrumental in securing a partial agreement, but the Syrian and Palestinian problems remain grave, and the Christian-Moslem fighting in Lebanon further destabilizes the uneasy situation,

In Latin America, Secretary of State Kissinger has committed the Nation to a treaty terminating U.S. sovereignty over the Panama Canal, despite Congressional opposition which is likely to prevail.

Overtures are being made to Cuba in which our Government appears ready to make unilateral concessions to Castro, thereby rejecting the Monroe Doctrine and accepting Soviet penetration of the Western Hemisphere.

As we look around the world, we see that power without resolve is no power at all.

Because of our country's preeminent military and political position among the nations of the world over the last 30 years the United States assumed many obligations and has had others thrust upon it. For many years, our actions established the credibility of our posture.

Without this credibility—a credibility we see threatened today—we would not only lose the confidence of our allies, but perhaps even more importantly, we would lose the credibility needed to deter any would-be aggressor.

History has taught us only too well that our international commitments have value only insofar as they are perceived to be credible by both our allies and our adversaries.

In the United States, popular dissatisfaction with what seemed to be an endless conflict in Vietnam led to an erosion of the domestic consensus over the conduct of our foreign policy.

The publicity surrounding détente further dimmed popular awareness of existing military and political threats to the United States, and also contributed to an erosion in the western alliance system.

Free nations around the world, confused by the ambiguities of détente, seem weakened in their sense of unity and common purpose.

A major danger of "détente" is that it tends to lull the United States into a false sense of security. Indeed, it tends to mislead the free world.

In an era that is said to reflect "entente, détente, and cooperation" among the globe's major power centers it is, of course, all too easy to misinterpret a potential adversary's intentions, and to allow judgment to become clouded by wishful thinking.

It is not sophisticated today to talk of a Communist threat. Yet, in my judgment, Russia remains committeed to the destruction of the free world, although not necessarily by force.

Moscow has an advantage in this effort. While the United States does not seek to impose its values on others, the Russians have no hesitation about forcing other nations to toe the line.

Although Communists boast of the independence of the nations of Eastern Europe, no one would seriously contend that Moscow does not remain the uncontested gondolier of Warsaw Pact diplomacy.

Lest anyone forget, in 1968, Chairman Brezhnev enunciated the Brezhnev Doctrine when the Soviet Union invaded Czechoslovakia.

The Brezhnev Doctrine, according to the Soviets, gives Moscow the right to intervene at will in the internal affairs of its European satellite countries.

Russia, as I see it, is playing a shrewd game.

The Soviets have come to realize that, in order to reach their goals, they must utilize all the fundamental elements of national power: political power, economic power, and military power.

Over the years, they have cautiously but continuously expanded their control and influence over more of the world. In the process, they have not only increased their elements of national power but have become more skillful in using them.

Their scientific achievements have been great. They lack capital, management, and technological skills, but they recognize these deficiencies and are taking steps to rectify them.

They hold out the hope of détente as a means of obtaining assistance in their technological difficulties, low interest rates, and long-term credits.

Most Americans are, of course, familiar with the United States-Soviet grain deal of 1972.

Not only did we let our products go too cheaply but the U.S. Government also provided what was in effect a $300 million subsidy. And, on top of that, Russia borrowed the money from the U.S. Government to pay for the wheat. In other words, Russia bought our wheat with our money.

Melvin Laird, former counselor to President Nixon, stated flatly:

> The wheat deal was forged to save the Soviets from the results of a disastrous agricultural program.

In addition, our subsidy of their domestic economy made it easier for them

to spend for defense—and strengthened the regime which had so mismanaged its farm policy.

Parenthetically, I want to say that the new grain agreement with Russia seems to me an improvement. It promises to end the wild fluctuations in Soviet demand—and there are no subsidies involved, or loan guarantees.

A second agreement with Russia in 1972 was the settlement of its debt to the United States.

At the end of World War II, after writeoffs, the Russian debt was set at $2.6 billion. In 1972, the United States agreed to a settlement for assured repayment of only $48 million, or less than 2 cents on the dollar.

Russia agreed to pay an additional $674 million—but that was contingent upon being granted most-favored-nation tariff treatment and huge loans from the Eximbank. To state it another way, the $674 million would be paid if she could borrow the money from us to pay it.

In addition to the grain deal and the debt settlement, we have permitted a technological drain to the Soviet Union. The Soviets are taking advantage of détente to obtain American computer science, the most advanced in the world.

Intelligence reports indicate that the Soviet MIRV Development was shortened by 3 to 5 years as a result of the Soviets' obtaining our advanced technology.

Furthermore, while the Soviets are building a more solid economic base, they exacerbate economic troubles for the West.

Oil was the first economic weapon to be used against us. There seems little doubt that the Soviets influenced Arab action in establishing the oil embargo and drastically and repeatedly raising the price of oil.

This has hurt the economy of Western nations and aggravated the relationships among nations dependent on Middle East oil.

Détente has, indeed, been a bargain for Russia. The Soviet Union has received tangible benefits. Just what the United States has received is not apparent.

Secretary Kissinger's theory is that détente will draw Russia into a network of commercial and diplomatic relationships which will give the Soviets a vested interest in stability and peace—tame the Russian bear, so to speak.

But history shows many long feuds and wars among nations that were trading partners and had extensive diplomatic relationships.

I favor keeping the lines of communication open to Moscow—just as I favored the opening of a dialog with China. I was the first Senator to applaud former President Nixon's trip to China.

Détente, in theory, namely a relaxing of tensions, is desirable. But what has happened in practice is that Secretary Kissinger has used it in an effort to buy Russian friendship with more and more concessions.

This is not likely to stand the test of time.

Although I feel the Soviets will avoid any action that might lead to general nuclear war, at the same time they will continue to maintain and improve nuclear capability and try to achieve military superiority for political ends.

It is, therefore, essential that the United States never lose sight of the fact that while moods and methods, words and gestures may change in Moscow, the underlying goal of the Communist dictatorship remains constant.

That goal is the world-wide domination of the Communist system. Russian actions in Angola give fresh proof of continuing Soviet expansionism.

If we forget this central fact, we imperil ourselves. Soviet theorists constantly reiterate that no matter what course may be dictated by the opportunities of the moment—and Moscow has changed course often—the ultimate goal remains the same.

Chairman Brezhnev made this clear in June 1972, when he said:

> Détente in no way implies the possibility of relaxing the ideological struggle. On the contrary, we must be prepared for this struggle to be intensified and become an even sharper form of the confrontation between the two systems.

The United States cannot afford to accept a "détente" which paves the way for global domination by the Soviet Union.

A distinguished professor on the faculty at the University of Virginia, Dr. G. Warren Nutter, has pointed out that when Secretary Kissinger was a full-time scholar and author, he repeatedly warned against the illusion that the Russians would abandon their drive for world domination in the name of détente.

Professor Nutter wrote:

> Kissinger the public official could find no more severe a critic of his policy of detenté than Kissinger the scholar, who would say that the search for a no-risk policy is self-defeating, that a so-called no-risk policy incurs the greatest risk of all.

I believe I have more faith in the views of Kissinger the scholar than those of Kissinger the public official.

In 1975, when our allies are questioning America's commitment to them, it is particularly important that we carefully evaluate the entire defense policy of the United States.

Most of us would prefer a world order based on justice rather than on might. But such an order, unfortunately, has not yet come.

Indeed, the only way we have to build a peace that is effective and lasting is to maintain a strong defense and to bargain realistically.

The implications of these facts for the current SALT negotiations are important to note.

If we are to attain nuclear stability, then we must insist upon strategic equality. We must maintain an adequate strategic defense as a vital element of our own national security and for the security of the free world.

I had reservations about the SALT–I agreement, which gave the Soviet Union a strategic edge.

For this reason I joined in sponsorship of an amendment to the SALT–I agreement, calling on United States negotiators to insist on equality with Russia in future agreements.

As negotiations proceed toward a second arms control accord, it is my hope that our representatives will above all resist the temptation to seek an agreement for the sake of an agreement.

I agree with my colleague, Senator JACKSON, that it is time to put the Soviets to the test.

Let us urge an accord under which both the United States and Russia pledge reductions in strategic weapons below existing levels. That is the direction in which I think we should move.

While negotiations are in progress, we must maintain a strong defense. The Soviets have only contempt for weakness.

As we consider our expenditures for defense, we should keep in mind that defense costs are not the major reason for the vast expansion of the Federal budget which has taken place in recent years.

The national defense budget is large. It rose by 58 percent from 1965 to 1975 and is still increasing. Two-thirds of that budget goes for personnel and related costs.

But during the same period, appropriations for the Department of Health, Education, and Welfare increased fivefold—and HEW expenditures are growing rapidly all the time.

Another important point is that while we must have a nuclear force sufficient to deter nuclear war, we also must have a conventional capability second to none.

We need both—nuclear and conventional—because without the latter a future President will lack a conventional option. We must have an alternative to holocaust.

For if, in this nuclear age, thermonuclear force is to remain the last and not the only resort, traditional diplomatic and military forces are more important than ever before, and conventional forces must be ready to indicate the seriousness of a nation's intentions.

The United States must be capable of establishing political goals in which the question of national survival is not always the immediate issue.

This requires responsible and enlightened leadership, and it requires a public aware of the realities of a nuclear age.

Peace can only be preserved if we have the capacity to deal with crises before they lead to general war.

We cannot, therefore, allow our wishes to overcome our judgment.

A strong United States, in my judgment, is essential to world peace and stability.

World peace, and stability, in turn, are highly important to our own prosperity and freedom.

And so as we frame a foreign policy for the future, let us set aside the illusions of détente and build up a solid foundation of strength and realistic bargaining.

No other course can insure our survival and our liberty.

SUPPORT FOR S. 2451, THE PROPOSED FOOD STAMP REFORM ACT OF 1975

Mr. CASE. Mr. President, the increased cost of Government is naturally a concern to all of us who pay taxes. And it is easy to focus on visible programs with known abuses, and demand that they be

cut back or even eliminated. I am speaking patricularly of our food stamp program.

There have been a number of press reports in recent months concerning alleged abuses of the food stamp program, some of which were later shown to be false. One advertisement claimed that a family with a net income of $16,000 could be eligible for food stamps, that even executives could qualify for the program. If that were true, I would be incensed, too. Nonetheless, there have been abuses, and they should be eliminated.

The Senate Agriculture Committee now has before it a number of proposals to make substantial changes in the food stamp program. I am a cosponsor of the bill introduced by Senators DOLE and MCGOVERN, S. 2451, because I believe it best meets the objectives of providing food assistance to those who need it most, while reducing the cost of the food stamp program by cutting its administrative cost and the possibilities for error.

The bill would establish a mandatory standard deduction of $125 to replace the existing complicated maze of deductions in arriving at net income. The present system has resulted in some households participating in the program when, in fact, they should not have been certified.

The legislation would eliminate the so-called purchase requirements, resulting in tremendous savings in administrative costs, possibly as much as $100 million annually. An eligible family would receive food stamps only in the amount of the present bonus and would not be required to purchase stamps in order to receive the bonus.

Elimination of the purchase requirement should also help to decrease the black market in food stamps. A substantial reduction in the number of food stamps in circulation will decrease the opportunities for chicanery.

In addition, this bill would prohibit participation in the food stamp program by students who are listed as dependents on tax returns by parents who are not themselves eligible for food stamps.

Under existing law, welfare recipients are automatically eligible to purchase food stamps. This has resulted in discriminatory treatment of welfare and nonwelfare food stamp recipients in some States where people are receiving food stamps at income levels which would disqualify them for food stamps if they were not receiving public assistance funds. Income and resources should be treated the same in all the States. This legislation would drop the automatic eligibility of welfare recipients, with an estimated savings of some $120 million annually.

Unfortunately, other proposals before the Senate Agriculture Committee, while also substantially reducing costs, would drastically lower the eligibility standards to eliminate many people from the program. In my view this would be inhumane because it would hit the elderly the hardest.

I hope that the Senate Agriculture Committee will look with favor on the approach taken in S. 2451. We should not deny those living on the verge of poverty the opportunity to purchase a nutritionally adequate diet for themselves and their families.

U.S. POSTAL SERVICE

Mr. MCGEE. Mr. President, Sunday's Washington Star published a letter by the Postmaster General, Ben Bailar, which I thought was a most succinct and apt description of the purposes—and difficulties—the U.S. Postal Service now faces.

The Postmaster General points out that there is a good bit of confusion about the mission of the Postal Service. This confusion often leads, both in and out of Congress, to vastly oversimplified recommendations about the future of the Service. As the Postmaster General points out, many assume since the reorganization of the Postal Service, that the Service is a business. It is not. Indeed, as the authors of the Postal Reorganization Act, we made very clear that the Service was to remain first and foremost a service to the American people.

There has been far too much simplistic talk about returning all or most of the control of the Service to Congress. The fact is, the Postal Service is undergoing some serious difficulties in trying to pay its own way. Those difficulties are very well put in Postmaster General Bailar's letter. The country and the Congress must come to grips with the problem of whether the Service is going to meet its rising costs and declining revenues through the rate structure or throughout tax base. That is the issue, and Mr. Bailar states it well.

Mr. President, I ask unanimous consent that the Postmaster General's letter to the editor of the Washington Star be printed in the RECORD.

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

[From the Washington Star, Dec. 14, 1975]

POSTAL SERVICE IS NOT A BUSINESS

Your Nov. 30 editorial ("Can't we deliver the mail?") misses the mark on the problem of postal finances. You make two inaccurate assumptions:

(1) That the Postal Service is a business, not a public service.

(2) That by returning control of the Postal Service to Congress, th costs of providing mail service will somehow fade away.

You sum up your position by stating that if the postal system is made accountable to Congress, it will become "what it once was and should be again: a government public service, rather than a business."

What the Postal Service once was, it still is—a public service. In reorganizing the nation's postal system in 1970, Congress did not alter its nature as a public agency. The opening words of the Postal Reorganization Act state: "The United States Postal Service shall be operated as a basic and fundamental service provided to the people by the government of the United States . . ." So we are, in every respect, a public agency and, as such, remain accountable to the people we serve.

Our paramount obligation is to provide a vital public service that facilitates the free flow of commerce and ideas. But the law also obliges us to balance our costs and revenues—to pay our own way. Obviously, we have had major problems in achieving this balance, especially in the last two years.

Like virtually every American business, institution and family, the Postal Service has suffered from higher inflation and the wilting effects of recession. Rising costs for labor and fuel—which together comprise 90 percent of the postal budget—have produced much higher costs. Decreased mail volume due to the economic slowdown has held down revenues. And our plight was aggravated by the extended deliberations of the independent Postal Rate Commission, which took almost two years to issue a recommendation on our request for higher rates.

In advocating a return of financial control of the Postal Service to Congress, you are tacitly supporting the myth that services provided by the government are "free."

"The government simply has to provide this (postal service) and pay whatever it costs beyond the revenues derived," you wrote. While this sentiment is appealing in its simplicity, your proposal would solve nothing.

The government does not pay for anything; the public does. The real question is how the public is to pay for mail service; whether through postage rates or through tax dollars for a subsidy. It is a question of whether mail users should pay for the services they receive, or whether the average taxpayer should pick up the tab, regardless of the extent of his or her use of the mails.

The Postal Service has asked Congress to take a closer look at the level of the "public service subsidy" we now receive. We have proposed that Congress determine what the "public services" are that cannot pay themselves, ascertain their true cost, and adjust the public service payment accordingly. We are also seeking legislation to speed up the rate-making process. And to bridge us over our current financial problems, we have also asked for a temporary additional public service payment.

I confess that I am puzzled by your inability to see the wisdom, if not the necessity, of making cost reductions and running the Postal Service more efficiently in light of our financial situation. Cost reduction, after all, is not synonymous with service reduction.

Further, no small post office will be closed unless we can provide alternative service equal to or better than that provided by the existing rural office.

The question of paying for the cost of mail service has been left too long ignored. The Postal Reorganization Act sought to provide the framework for an answer, and until double-digit inflation and recession intervened, our financial situation was fairly sound.

I do not therefore share the Star's view that the time has come for that structure to be dismantled after only four years of testing. The Postal Service remains firmly committed to its legal and historical obligation to the public—to provide efficient mail service at a reasonable price. The steps we have taken in recent weeks to resolve our financial problems will, I believe, help us meet that mandate.

BENJAMIN F. BAILAR,
Postmaster General.

WASHINGTON, D.C.

SENATOR HUMPHREY'S ECONOMIC POLICY LEADERSHIP

Mr. PROXMIRE. Mr. President, the December 15, 1975 issue of Business Week contains an excellent article commenting on the outstanding leadership in the national economic policy area that is being provided to the Nation by Senator HUBERT HUMPHREY in his post as chairman of the Joint Economic Committee.

In this article, Senator HUMPHREY's initiatives in the areas of full employ-

ment, national economic planning, aid to the cities, and reform of the Federal Reserve System, are singled out for special attention. The article also outlines Senator HUMPHREY's views on current economic conditions and the role of national economic policy in improving them.

The article further describes the important influence that the Joint Economic Committee has had on the major economic policy decisions and debates in the last year. It also indicates the very high regard with which the committee and its chairman are held within the Congress, the administration and the Federal Reserve Board.

As a former chairman of the Joint Economic Committee myself, and an active member of that committee who has worked on numerous occasions with Senator HUMPHREY during the past year on important pieces of economic legislation, I would just like to add my support and appreciation for Senator HUMPHREY's vigorous leadership.

Senator HUMPHREY has done a magnificent job with the committee. He has it working night and day. The staff is on its toes. He has been innovative in the services provided to Congress, and he has done stellar work.

I believe that sometimes it is easy for us to overlook the important contributions made by nonlegislative committees of the Congress. I bring the Business Week article to the attention of my colleagues in order to give them a fuller understanding of exactly how important such committees can be, in this case, the Joint Economic Committee.

Mr. President, I ask unanimous consent that 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:

HUBERT HUMPHREY'S SPRINGBOARD FOR '76

"I don't think any man worth a damn can be President of the U.S. unless he understands economics," insists Hubert Humphrey, the man President Ford says will be his opponent next November. "If he doesn't, he isn't going to be able to govern."

Although the Minnesota Democrat claims that he is not actively seeking the Presidency, he has been vigorously using his new post as chairman of the Joint Economic Committee to challenge the Ford Administration's economic policies. And with the economy likely to be the No. 1 issue in the 1976 elections, Humphrey makes it clear that the JEC will be both a forum for public debate on economic issues and a catalyst for major legislative changes in the economic area. "I don't think he planned it that way, but being chairman of the JEC fits well into the noncampaign of a potential candidate," notes Walter Heller, former chairman of the Council of Economic Advisers.

It is also no coincidence that Humphrey intends to try to make ideas developed through the JEC a part of the Democratic platform in 1976. "I intend to take some of these ideas and push for them on the party platform," he says. Adds Representative Richard Bolling (D–Mo.), a ranking member of the JEC: "In the coming year the JEC with Humphrey as chairman will certainly be a policy voice for centrist Democrats."

Between now and the election next November, Humphrey's strategy is to keep himself and the JEC highly visible by moving on three broad and highly controversial fronts:

A review of the Employment Act of 1946—in time for its 30th anniversary next year—to determine what amendments may be needed to enable the government to cope more effectively with the twin problems of high unemployment and high inflation.

A push for comprehensive economic planning and job guarantee programs, which could become the basis for changes in the employment law and more Congressional control over the Federal Reserve Board.

A series of economic studies that range from the role of monetary and fiscal policy to the development of national energy and food programs.

In keeping with traditional liberalism, Humphrey's overriding concern is unemployment. With the jobless rate expected to hover around 8% next year, unemployment will be a key issue in the campaign. He maintains that without new government initiatives unemployment will remain very high for years.

Humphrey wants to toughen the employment law by committing the government to specific unemployment targets of 3% to 4% at a time when many economists feel a more realistic unemployment target should be around 5% ot 6%. He argues that the public, Congress, and even liberal economists have become resigned to unemployment because they have been conditioned from the New Deal through the Great Society to having the government administer "pain killers and pep pills" to treat joblessness. "There is a limit to the effectiveness of unemployment compensation and of the other economic stabilizers we have built into the economy," he says.

NEW TOOLS

Humphrey does not want to abandon the stabilizers, but he wants the government to become the employer of last resort. The JEC is now working on legislation for Humphrey that would require the White House and the Fed to publicly declare what policies they intend to pursue in support of full employment goals set by Congress. Current drafts by the JEC staff, set the long-term full employment goal at 3% and would require the President to state numerical goals for employment growth and prices each year. And where monetary and fiscal policies fall short of meeting these goals, the legislation would provide for job-creating programs, such as revenue sharing grants, wage subsidies, public works, and public service jobs.

Underlying Humphrey's approach is the belief—shared by many, including such conservatives as Fed Chairman Arthur F. Burns—that traditional monetary and fiscal policies alone no longer work. Humphrey says he is part of the "Heller group," but insists that the liberal economic policies of the Sixties that relied mainly on fiscal policy are inadequate to deal with current problems. "We have never before been confronted by inflation and recession at the same time, and we have to find new government tools for combating both," he says.

In particular, Humphrey believes that macroeconomic policies cannot deal with the types of problems that have plagued the economy, such as shortages in food, energy, and other resources, and bottlenecks in industrial production. As John Stark JEC staff director says: "Macroeconomics has not borne the fruits we expected. We have come full circle from the early Sixties, and we are now looking at more sectoral problems."

LONG-TERM PLANS

Humphrey argues that these sectoral problems have in part thwarted macroeconomic solutions to unemployment and economic growth. He therefore is pushing for planning legislation that makes even some liberal economists such as Heller uncomfortable. His bill, which was cosponsored by Senator Jacob Javits (R-N.Y.), would set up an economic planning board in the White House to draw up long-term plans for the economy every two years. Humphrey takes pains to point out that the plans, which would be drafted with the help of Congress, business, labor, and consumers, would not in any way be compulsory, but would set long-term targets for the economy.

"The purpose of the economic planning bill is to focus attention on the proper utilization of resources, the interrelationships in our economy, and the role of government policy," he says. "The question is how we make the government a good working partner, not a dictator, of the private economy. Today, government policy often is such an ad hoc, patch-on proposition that you never really get a chance to take a look at the final ripple effect."

Humphrey's favorite example of the consequences of this ad hoc approach is the 1972 Russian grain deal. "Nobody ever stopped to think what was going to happen to the grocery bills across this country," he says. "In the end our grocery bills went up billions of dollars. Somewhere in the government there ought to be a way you can analyze the cost of such deals."

Ironically, Humphrey's concern with unemployment and growth has allied him with businessmen and many conservative economists who believe a capital crisis is shaping up. "Unlike some of my liberal colleagues I am very concerned about capital formation," he says. "The capital requirements to boost employment in the future are going to be much heavier than they were in the past and that they will not be met simply by getting the economy on its feet again."

FED CONTROL

A companion measure to the planning bill, and one that is equally controversial, would increase Congressional control over the Fed and its policies. The bill would reduce the terms of Fed members from 14 to 7 years and broaden the seven-member board by mandating representation of labor, small business, agriculture, and consumer groups. It would also permit the President to appoint a majority of the members during his first term, make the term of the chairman end with that of the President, and force the Fed to come to Congress for operating funds. Complaining about Burns's independence at the Fed, Humphrey says, "We're playing the ball game on his ground now and that means he always wins. As things now stand, the Fed doesn't have to relate monetary policy to the goals of the Employment Act or to over-all government economic policy."

Humphrey concedes that none of these legislative initiatives is apt to be approved anytime soon. He regards them as vehicles for generating a national debate of economic issues in the coming election year. And he hopes the extensive study series now under way at the JEC will provide the intellectual underpinnings for the debate.

The study series, described by the staff as the "most ambitious" ever undertaken by the JEC, will initially cover 12 major areas, including employment, national economic growth, monetary and fiscal policy, economic planning, inflation, and government regulation.

The JEC's Stark sees a parallel between the current situation and the late 1950s when Senator Paul Douglas, with the help of the then Senate Majority Leader Lyndon Johnson, used the committee to conduct a major study on employment, prices, and income that was to serve as the foundation for President John F. Kennedy's New Frontier economic policy. "When Kennedy came into office, there was a body of ideas available from which policy could easily be developed," Stark says.

Despite the obvious partisan thrust of the committee, Humphrey has earned high marks from Burns, a frequent adversary. Testifying at the committee's midyear review of the economy last July, Burns told Humphrey: "I find it more pleasant and more instructive to appear before your committee than any other in the Congress." Concedes a top Administration economist: "On economic issues, Humphrey is among the most perceptive people in Congress."

Since taking over the chairmanship, Humphrey has not only broadened the committee's workload, he has broadened its exposure. Almost immediately after becoming chairman last January he started a weekly newsletter that now has a circulation of 6,500 in and out of Washington. More recently he has taken the committee on the road with a series of regional hearings on unemployment and inflation. The JEC has appeared in Chicago and New York, and before capping the hearings off with a national economic summit meeting next March, the committee plans to appear in Atlanta, Los Angeles and Boston.

THE NEW IMAGE

Perhaps more important, at least within the power structure of Congress, Humphrey has begun to make the JEC a force in the legislative process. Because joint committees of Congress have no power to initiate legislation, the JEC for many years has had an "ivory tower image."

Under Humphrey that image has changed. He has already used the JEC to develop the ideas and data that heavily influenced such major pieces of legislation as the 1975 tax cut and the resolution that forced the Fed to announce its monetary targets quarterly. Humphrey also used the JEC to focus the Congressional debate on New York City's financial crisis, and the committee chairman, for the first time, is included in the leadership meetings of the Senate.

Says non-candidate Humphrey: "I am trying to make the committee an educational instrument as well as an advisory body for the Congress. I want to put my ideas before the public and I intend in the coming year to make myself heard on some pretty controversial issues."

KENYA NATIONAL DAY

Mr. HARTKE. Mr. President, in 1963, Kenyans achieved the status and dignity of a free people after a long period of protracted struggle. On December 12, 1975, Kenya celebrated her 12th independence anniversary when 12 million Kenyans recalled with pride the formal departure of the colonial administration.

Today, the 12 million Kenyans, led by his Excellency Mzee Jomo Kenyatta, President of the Republic of Kenya who is one of Africa's most respected nationalist leaders, will rededicate themselves to achieve and uphold the ideals and goals pledged at the time of independence on December 12, 1963.

Kenya has continued to operate a unicameral national assembly which is composed of a chief of state, 158 elected members, and 12 nominated by the President.

During the 12 years of nationhood, great achievements have been made to uplift and improve the well-being of Kenyans. Within this period, Kenya has directed its efforts to combat three national enemies: disease, ignorance, and poverty. The battle against these enemies will continue for a long time as corrective measures are taken to minimize or eradicate their adverse effects on socioeconomic development.

Kenya's achievements would not have been possible without the guidance and good leadership provided by H.E. the President Mzee Jomo Kenyatta who, among other things, has inspired a sense of national unity based on Harambee for the fulfillment of commitments.

Over the years, Kenya's gross national product, GNP, has increased from 347 Kenya million pounds in 1963–64 to 789 in 1973–74. This has nearly doubled the per capita income at the time of independence. The GNP per capita in 1963–64 was 38 Kenya pounds. Today, the figure is more than 60 Kenya pounds.

On the national forum, the Government has continued to strive to promote social justice which of necessity must be based on growing political stability and economic strength. Since independence, the economy has grown at an average rate of 6.8 percent per annum. Manufacturing output—prices adjusted—has grown by 8.1 percent per annum since 1963, while agriculture has grown 6.5 percent.

Despite world spiraling inflation affecting Kenya's essential inputs sustained growth and declining prices of her exports, Kenya continued to explore new markets for her exports and in 1974, the volume of Kenya's trade was estimated to have risen by no more than 3 percent in real terms.

Before independence, most high- and middle-level occupations were manned by expatriates; by 1972, 74 percent of them were in the hands of Kenyans.

Since 1963, nearly 260,000 hectares of former European-owned farms have been purchased to settle more than 35,000 landless families in the so-called "million acre scheme." Out of this figure, 9,000 families had already been settled just before independence when the settlement program was initiated. The settlement program has been a major contributing factor in the increased agricultural output. In 1972, recorded sales from settlement schemes amounted to over 4,000,000 Kenya pounds, an average of Kenya pound 114 per family. This was in excess of the original target of an average cash income of Kenya pound 100 per family. Settlement farmers contribute significantly to the production of pyrethrum and dairy products. The second phase of the "million acre scheme" has been launched and the Government intends to settle more landless people through cooperative schemes. In 1973, more than 43,000 hectares had been taken over and more than 6,000 families settled. Squatters have also been settled on abandoned and mismanaged farms.

Kenya provides free education from standards—grades—one to four. Education has witnessed an unprecedented push and improvement. The number of boys and girls enrolled in primary schools has doubled from 890,000 in 1963 to 1,676,000 in 1972. The proportion of girls rose from 34 to 43 percent in the period under review. The 1972 figure represents 70 percent of the population aged between 6 and 12 and this suggests a 1974 target of 75 percent overall enrollment was achieved, bringing the ultimate goals of universal primary education.

For secondary education, 162,000 students were enrolled in 1972 compared with only 30,100 in 1963. About 45 percent of 1972 figure were in unaided "Harambee" schools of which several of them were built in the last decade, with resources provided by the local people throughout the country. Enrollment at the University of Nairobi has risen tenfold from 571 in 1963–64 to 6,000 in 1972–73 and with the opening of the second Kenyatta University College, the number of the Kenya students on Higher Education including those students abroad is now estimated at more than 10,000.

To supplement her education efforts, Kenya has a number of teacher-cum-technical training institutions for training teachers to meet the increasing demand for qualified manpower in the education system. In 1972, the number of teacher trainees reached 7,500. During the seventies, more than 10 colleges of technology were started in various parts of the country and some of them have become operative. The construction of these colleges were necessitated by the increased number of students from secondary schools who could not get access to the universities. Graduates from these colleges will meet, over a period of time, Kenya's needs for technical skills and thus reduce her reliance on technical personnel from overseas.

As defined in the African Socialism—Sessional Paper No. 10, Kenya has continued to offer free medical treatment to outpatients. This necessitated the construction of new hospitals and the improvement of the existing ones. In 1973–74, there were 200 hospitals with the bed-occupancy of 18,000 as compared to 148 hospitals in 1963 with 9,700 beds. The total medical expenditure in 1963 was 100 million Kenya shilling—this figure has been quadrupled.

Kenya adheres to the charters of the United Nations Organization and the Organization of African Unity, and espouses the policy of nonalinement and good neighborliness.

Nairobi, Kenya, is the headquarters of the United Nations Environment Program—UNEP.

With the completion of the Kenyatta Conference Center, 2 years ago, Nairobi has become a hub of international activities as evidenced by the convening of the World Bank and International Monetary Fund annual meetings in Nairobi in 1973. This was a great honor not only to Kenya but to the entire African continent. Since then, the number of international and regional meetings in Nairobi has been on the increase.

Lastly, the Fourth United Nations Conference on Trade and Development, UNCTAD, is scheduled to be held in Kenya in 1976 during the months of May and June.

Mr. President, the foregoing is a short review of Kenya's achievements through her national motto of "Harambee."

ENERGY POLICY AND CONSERVATION ACT, S. 622

Mr. McINTYRE. Mr. President, I plan to cast my vote in favor of the conference report on S. 622, the Energy Policy and Conservation Act for several rea-

sons. I urge President Ford to sign it when we send it to him.

In the interest of national security and worldwide economic well-being, I do not believe that it is wise for the United States to hand its energy pricing system over to a two-part cartel, made up of the major multinational big oil companies and the Organization of Petroleum Exporting Countries. If we do not accept this report's price system, I am afraid that we will do just that. There will then be no semblance of order in the country's energy pricing system.

If we rapidly abolish price controls on energy in this country, several things might result. First, we could find that the two-part cartel would work with our domestic energy companies to raise prices dramatically. Second, as oil prices rise, coal, gas and even uranium prices would jump. Sensing a golden opportunity for windfall profits, energy producers would jump on the bandwagon of greed fostered by the lenient Ford administration and its oil baron handmaidens. We cannot allow that to happen.

Those big oil companies that I speak of have run roughshod over consumers in other countries. I am told that gasoline now costs nearly $2 per gallon in Britain. In this country, and for the rest of the world, the economic effect of rapid price increases would be disaster for the already shaky world economy. Britain is paying huge sums for imported oil. Many people say it is close to bankruptcy. The Italian standard of living dropped last year. France and Germany face high inflation rates. Japan struggles to pay. Everywhere the pervasive impact of oil prices has affected the international economy. In this country, with a reasonable system of price controls on oil we can help slow down that inflationary spiral. But if we give in and remove price controls on crude oil, the effect on this economy and the world economy and international security could be monumental. It could make the effects of New York City look like a minor cold in the face of worldwide pneumonia.

So, even with its imperfections we should enact this legislation.

It has some other very positive features.

In the case of New England, it could mean a decrease in the price of gasoline and fuel oil by a penny or two per gallon because of the price rollback for crude oil.

Second, it could mean an end to the burdensome price controls on the independent retail sector that may be keeping prices up, if hearings show that they have outlived their usefulness. Many independent oil dealers tell me that prices could come down if these controls and regulations are removed.

The conference report also calls for establishment of a national petroleum reserve, with a specific regional reserve for New England. This will mean that New England will have a fuel reserve equal to about five months supply of each fuel we import and use for home heating and electricity generation.

For the longer run, our consumers will also benefit from the bill's requirement that automobiles and home appliances be labeled to show their efficiency and meet standards for miles per gallon or electrical efficiency.

This conference report has several other sections that are important.

It requires that the States establish energy conservation goals and programs, it helps set up the international oil sharing program without giving the entire program away to the oil company cartel, it requires that utilities whenever possible burn coal instead of natural gas, and sets energy conservation standards for industry.

Finally, it sets up an energy data bank to make sure that the Federal Energy Administration and the Congress know what is happening in our energy industry so that important statistics cease to be under the total control of big oil.

THE UNWRITTEN RULE OF JUDICIAL RESTRAINT

Mr. HARRY F. BYRD, JR. Mr. President, the Richmond Times-Dispatch of Sunday, December 7, 1975, carried the major portion of a recent speech by Virginia Supreme Court Justice Harry L. Carrico.

That address, "The Unwritten Rule of Judicial Restraint," presents, in my view, one of the finest brief statements ever rendered on this subject.

Mr. Justice Carrico was nominated to the Virginia Supreme Court by then Gov. J. Lindsay Almond, Jr., in 1961. He is exceeded in seniority on the commonwealth's highest court by the chief justice alone.

Prior to his appointment to the Virginia Supreme Court, Mr. Justice Carrico had divided his professional life between the private practice of law and service on lower court benches, as a trial justice for 8 years and as a judge of the 16th Judicial Circuit for 5 years. He is eminently well qualified to speak on this important subject.

It is my belief that the single most important canon of judicial responsibility is the unwritten rule of judicial restraint. As Mr. Justice Carrico puts it:

> This unwritten rule in the conduct of our judicial affairs is almost as old as our legal system itself, and arose as a matter of urgent necessity. If the laws were to be declared subject to the whims of each judge or so as to suit the desires of a particular litigant or to satisfy the pressures of a special group, we would soon have a confused hodgepodge rather than a system of justice. Every judge, regardless of the high or low order of his court, should be foresworn to observe this doctrine with infinite care.

Mr. Justice Carrico notes the rule of "stare decisis," or respect for announced and established judicial precedent, has its most profound application in the area of constitutional interpretation. He realistically notes that "changes in times require and demand changes in law." But he follows with an admonition, which I heartily endorse:

> But under the theory of separation of powers and the delicate pattern of checks and balances set up to make the theory work, the courts, are enjoined from making laws and thus encroaching upon the area reserved to the legislative department. *And the process of amending constitutions is forbidden territory to the court.* (Emphasis added.)

His final admonition cannot be stressed enough. It needs constant public reiteration because this Nation has seen it abused time and time again by judges who legislate from the bench with a studied disregard for the canon of judicial restraint.

It is most fitting, I feel, that this fine address has been published at this time. I am doubly pleased that I can bring to it the attention of the Senate, both as a study of one of the precepts of our great legal heritage and as a sound measure by which to judge the next individual to ascend to the bench of our Nation's highest judicial tribunal.

Mr. Justice Carrico states that test succinctly:

> . . . we can maintain the integrity of that system (of justice) only by adherence to those doctrines of law that have been tested in the crucible of the centuries and proved worthy of sustained allegiance.

Indeed, that test should be employed by the Senate each and every time it carries out its constitutional responsibility of confirming nominees to any judicial post.

I ask unanimous consent that the excerpt of the speech of Virginia Supreme Court Justice Harry L. Carrico, "The Unwritten Rule of Judicial Restraint," which was published by the Richmond Times-Dispatch, be printed in the RECORD.

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

[From the Richmond Times-Dispatch, Dec. 7, 1975]

THE UNWRITTEN RULE OF JUDICIAL RESTRAINT

The Bicentennial, of course, is the celebration of the birth of our country as an independent nation. But it will mean nothing unless, at the same time we celebrate, we rekindle and reawaken our faith in the fundamental concepts upon which our country was founded. The Bicentennial will be an empty thing unless we take the occasion to pause and quicken our appreciation for the American system of government, the American system of law—a plan of government and of justice by rule, reason and right, rather than by force and fear.

It is my sincere belief that the American rule of law has been the ultimate, most important single factor in the greatness of our country. Without our rule of law, the American experiment, in my opinion, would have long since failed.

Law is the key to order, justice and freedom. But we cannot hope to secure order or promote justice or aspire to be free, we cannot expect our way of life as we have known it to continue forever, we cannot give any meaning to the Bicentennial if the key we employ to open the door to the future is a crude, untried product, whittled out of the emotional graspings of the uninformed political opportunists of our times. We can achieve the lofty ideals of which the Bicentennial is symbolic only if we adhere to those principles which have made this country the finest, freest place in the world.

We can successfully adhere to those principles only if we keep vitally strong our system of justice and the judiciary which is the essential element of its strength, and we can maintain the integrity of the system only by adherence to those doctrines of law that have been tested in the crucible of the cen-

turies and proved worthy of sustained allegiance.

One of those doctrines is as important to our system of justice as any other single precept. I refer to the doctrine known as *stare decisis* . . .

It means to stand by decided cases, to maintain adjudications, to uphold legal precedents. It rests upon the theory that the laws by which people are governed should be fixed, definite and known; and that, when a law has been declared by a court of competent jurisdiction to have a particular construction, such construction—in the absence of palpable mistake or error—will be followed by that and inferior courts as the law until changed by competent authority.

This unwritten rule in the conduct of our judicial affairs is almost as old as our legal system itself, and arose as a matter of urgent necessity. If the laws were to be declared subject to the whims of each judge or so as to suit the desires of a particular litigant or to satisfy the pressures of a special group, we would soon have a confused hodge-podge rather than a system of justice. Every judge, regardless of the high or low order of his court, should be foresworn to observe this doctrine with infinite care.

It is in the highest interest of the people that there should be stability in the laws by which they regulate their conduct. It is sound public policy that the construction of statutes and the interpretation of constitutions ought not to vary with every change in the personnel or ideas of a court. It is only by consistent and uniform application of the laws that one may make a will, execute a contract, undertake an obligation and direct his normal affairs, safe in the knowledge that what is declared to be the law today will probably be the law tomorrow when the effect of today's actions are judged.

In no other area is the doctrine of *stare decisis* so important as in the field of constitutional law. It has been asked, "What is the Constitution but the great contract of the people, every citizen having sworn allegiance to it?" A system of fundamental principles, a permanent and paramount law which should be faithfully and rightfully executed. Like any other contract, it is not to be violated; its violation foredooms its destruction. When the sovereign will of the people has been expressed in a written constitution, it is the duty of the courts rigidly to enforce it and not to circumvent it, even though the need and pressure for change may be great.

It has long been a cardinal rule in dealing with constitutions that an interpretation once adopted will consistently be followed so that a constitutional provision will not be taken to mean one thing at one time and something different at another time, despite the fact that circumstances may have so changed as to make a different rule desirable. Admittedly, changes in times require and demand changes in law. But under the theory of separation of powers and the delicate pattern of checks and balances set up to make that theory work, the courts are enjoined from making laws and thus encroaching upon the area reserved to the legislative department. And the process of amending constitutions is forbidden territory to the courts.

In practical operation, then, the doctrine of *stare decisis* imposes upon judges a rule of restraint. If a judge follows this rule of restraint, he has the ability to resist the temptation of injecting his personal ideas of the law and his own private notions of justice into the conduct of his judicial affairs. If he fails to exercise restraint, a judge will be unable to recognize judicial precedent. He will abandon the principles of law that wiser and more learned judges have charted for him; he will embark upon a course of deciding cases because of expediency, pressure or hope of self-gain. Without this restraint—this essential judicial quality—a judge may do great harm to fundamental doctrines; he will destroy faith in our system of justice.

The effect of the failure of judges to follow the doctrine of *stare decisis* was exemplified in the dissent of Mr. Justice Roberts in a 1944 Supreme Court case. He dramatically held up a warning hand when he said, "The reason for my concern is that the instant decision, overruling that announced about nine years ago, tends to bring adjudications of this tribunal into the same class as a restricted railroad ticket—good for this day and this train only."

All this is not to say that when a judicial decision is made that is admittedly wrong it must nonetheless stand forever and constantly do harm to one innocent litigant or another. The rule of *stare decisis* does not apply where the former decision has misunderstood or misapplied the law or is contrary to reason. This is because no legal principle is ever settled until it is settled right. And it may be said to be settled right when it is accepted by the people, when it is not reversed by the legislature, when it is reacknowledged by the same and by other courts and when it is acted upon over a long period of time. But once so settled, such a decision must be accorded the greatest finality as a statement of the law. It should be binding unless and until it is changed by the people, acting through the legislative process.

The courts should, therefore, refrain from making changes in established rules except to the extent permitted within the framework of the doctrine of *stare decisis*, and that is when previous decisional error is apparent. With self-restraint and self-discipline as his daily by-words, a good judge will confine his actions to the discharge of his sole function: to interpret and administer the law, and not to make it.

In these days, when our democratic institutions are being challenged from every side and our courts assailed by frustrating criticism and abuse, it is time for all of us to remember that this country was founded, and has flourished, upon a set of ideals of decency and honesty in government never before known in history. As we celebrate our Bicentennial, it is a good time to remind ourselves that the privilege to enjoy what we have carries with it the responsibility to sustain it against all attack. But even more important, it is time to forewarn ourselves that the things that we have long cherished can suddenly and easily be lost.

A qualified, dedicated judiciary is the greatest safeguard of the rights of man and his finest hope for the preservation of his traditions and his heritage. The men who sit on our benches must love and be devoted to the law; they must be men with souls—men who are willing to accept and bear the awesome responsibility and who, with alert and constant vigilance, will keep alive the highest principles of justice and the greatest blessings of liberty.

This is the nature of the duty imposed upon and assumed by the judiciary. But upon . . . every citizen there rests a reciprocal burden: to foster and protect the dignity, freedom and integrity of our system of justice. Only if these mutual obligations are patriotically discharged can we hope to approach with calm assurance the forecast of destiny, made long ago in words far more profound than I can express: "We, even here, hold the power and bear the responsibility . . . We shall nobly save, or meanly lose, the last, best hope on earth."

THE C–5A: $1.5 BILLION TO FIX THE DEFECTS

Mr. PROXMIRE. Mr. President, cost overruns on the C–5A cargo aircraft are nothing new, but most people have assumed that we have heard the last of them. Unfortunately, we have not. The C–5A is back, warts, wing cracks, cargo hatch defects and all.

The bills for correcting the many deficiencies are beginning to come in and the Air Force is trying to stampede Congress into approving repairs on the C–5A aircraft, including $1.3 billion to fix defective wings, without adequately considering alternatives.

A General Accounting Office study, done at my request, shows that costs to fix the defective wings of the C–5A are now being estimated as high as $1,344,000,000.

Other defects such as the need to repaint all the planes to prevent corrosion will bring the repair bill to $1.5 billion, according to GAO.

REAR CARGO HATCH PROBLEM

Among the other deficiencies that need to be corrected are the rear cargo hatches.

Failure of the rear hatch system caused the crash of the C–5A in Saigon, on April 4, 1975.

The rear cargo hatches of the entire C–5A fleet were sealed shut following the April crash.

The Air Force gave Lockheed a $695,000 contract to provide material kits and show it how to seal the rear hatches. An additional $1 million was spent by the Air Force in actually sealing them.

The Air Force has given Lockheed approximately $500,000 in other contracts to study the deficiencies of the C–5 and it is probable that Lockheed will be awarded the contracts to design the new wings and to install them.

PENTAGON WITHHOLDS INFORMATION

It is necessary to examine specific data on airlift needs, particularly outsize cargo requirements in an emergency situation, in order to determine whether the high costs of repairs is justified.

The Pentagon has denied GAO access to the information on grounds that it is part of the war plans and therefore too sensitive. The Air Force has now agreed to furnish some of the information in the next few weeks.

C–5A COMPARED WITH 747

A comparison of the C–5A with a comparable commercial plane, the Boeing 747 cargo aircraft, shows that the Air Force needs might be better served by not sinking additional billions into the problem-plagued C–5A.

The Air Force could purchase 30 747 cargo planes for the same amount it would need to spend repairing the C–5A fleet.

A major advantage of buying new planes would be that the soundness of their construction has been proven in extensive commercial use.

WHY SINK MORE MONEY INTO A DEFENSE PLANE?

After spending $1.5 billion to repair the C–5A, we would still be stuck with the old C–5A. We would still have doubts about its future performance.

Another option would be to not fix the C–5A or buy any plane until it is necessary to build a follow-on replacement.

The C–5A can be used until the early 1980's without extensive repairs.

It seems to me to be precipitous and wasteful to spend so much more on the C–5A.

The Pentagon's refusal to fully disclose to Congress its airlift requirements reinforces my suspicion that we are being rushed into an unwise action.

For all Congress knows at the present time, there may not even be a real need for the C–5A or a replacement.

AMENDING THE HATCH ACT

Mr. McGEE. Mr. President, Robert B. Barnett, a Washington attorney and law professor, has presented in the pages of the Washington Star a fairly concise statement of the questions which the Committee on Post Office and Civil Service addressed in its consideration of H.R. 8617, to amend the Hatch Act.

The overriding question is, as Mr. Barnett put it, the conflict between freedom to participate in politics and restrictions on that freedom for an allegedly overriding public good.

In his article, which appeared in Sunday's Star, Mr. Barnett arrived at the same point as the majority of the committee, concluding that the limitations put on the rights of individual citizens, even though employed in public service, should be clearly defined and as few as possible. In short, he has viewed H.R. 8617 as consistent with our commitment to first amendment rights and therefore a justifiable change to take.

Mr. President, H.R. 8617 has been reported to the Senate and I hope that it can be taken up soon. I ask unanimous consent that Mr. Barnett's generally excellent article be printed in the RECORD.

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

[From the Washington Star, Dec. 14, 1975]

SCUTTLING THE HATCH ACT IS WORTH A GAMBLE

(By Robert B. Burnett)

Republican Rep. Edward Derwinski of Illinois calls it "a power grab by federal union leaders (placing) conscientious federal employees at the mercy and calling of politicians." Democratic Rep. Herbert Harris of Virginia says it will "grant 2.8 million citizens their political freedom."

The argument is over HR 8617, a bill passed by the House last month on a vote of 288–119. The legislation would effectively repeal the Hatch Act which, since 1939, has severely limited partisan political activity by public employees at all levels of government.

Although facing a veto at the White House, the bill is likely to clear the Senate this year. If HR 8617 becomes law, civil servants will be able to run for office, play an active role in campaigns, support partisan candidates, and otherwise exercise full political rights.

The battle over the bill presents, in sharp focus, a new conflict between freedom to participate in politics and restrictions on that freedom for an allegedly overriding public good.

The Hatch Act has survived two major Supreme Court challenges, in 1947 and 1973. Most recently, the court, by a 6–3 vote, upheld the act, rejecting arguments by the National Association of Letter Carriers, several federal employes, and Republic and Democratic political committees that the act was "unconstitutionally vague and fatally overbroad."

Although 1974 legislation removed most restrictions on state and local government employes, the basic limitations on federal employes, prohibiting them from "tak(ing) any active part in political management or in political campaigns," remain.

The legislation currently pending would remove all restrictions on political activity by 2.8 million federal employes, freeing them to enter the political arena. It strengthens current prohibitions on use of official authority to influence political activity or votes, and it limits the solicitation of contributions, the use of money to influence votes, and activity during working hours and on government property.

The bill creates a new Board on Political Activity of Government Personnel to hear and adjudicate alleged violations and gives the Civil Service Commission broad powers and greater flexibility to investigate abuses.

A new educational program designed to inform federal employees of their rights will take effect. Federal workers will need know little more, however, than that everything outside the narrow prohibitions is permitted.

The bill's supporters see an opportunity to remove antiquated and unclear restrictions on the political freedom of federal workers. A representative of the AFL–CIO says: "(P)ublic employees . . . are effectively denied the rights enjoyed by other citizens to take part fully in America's democratic process.

Opponents of the bill—mainly Republicans, judging by the House vote—see it as an attempt by the Democrats to unleash thousands of overwhelmingly Democratic federal employees for service in the 1976 election. They see a formidable political force in the public-employee unions, which have gained large memberships but have lacked political muscle.

In view of the American commitment to political freedom, the Hatch Act may seem difficult to defend. Actually, restrictions on political activity by public employees are designed to serve three distinct purposes.

First, the Hatch Act and its forerunners seek to protect the public. In the words of the Supreme Court majority which upheld the legislation in 1973, "It seems fundamental . . . that (public) employees . . . should administer the law in accordance with the will of Congress, rather than in accordance with their own or the will of a political party."

Whether political considerations would actually influence the decisions of civil servants, it has been thought important that the public not even perceive partisan considerations to be influencing governmental decisions. To avoid actual conflicts of interest or public perceptions of them, civil servants were kept off of partisan tickets and ways from partisan political activity.

The House Post Office and Civil Service Committee, in sending the bill to the floor, discounts this rationale. "Previous studies, public hearings, and staff surveys," the committee's report states, "reveal no evidence that voluntary political activity in any way erodes the integrity of the merit system nor operates against the public interest."

But Robert Hampton, the chairman of the Civil Service Commission, disagrees. "(P)ublic employees become identified with the aspirations of political parties and candidates," Hampton argues, "and partisan considerations are injected into the career service . . . (The) employee (is compromised) in the eyes of the public . . . Competition among employees for advancement and favor based on their contribution of money or services to political parties would detract from the efficient administration of public business."

The second purpose of the restrictions is to protect those in power from their own baser instincts. The Hatch Act was enacted following massive abuses during the 1936 and 1938 campaigns. A Senate Committee found that government employes and welfare recipients were coerced into political activity and that public assistance funds were diverted for political purposes. Congress was convinced, again in the words of the Supreme Court majority, "that substantial barriers should be raised against the party in power—or the party out of power, for that matter—using the thousands or hundreds of thousands of federal employes, paid for at public expense, to man its political structure and political campaigns."

Proponents of H.R. 8617 feel that direct restrictions on the misuse of official authority to influence votes or to force political activity will keep the party in power in line. Opponents of the legislation remember the Huston Plan, proposing the use of federal agencies to harass Nixon administration "enemies." They continue to fear the politicization of the civil service and recognize the difficulty of detecting abuses.

Finally, the Hatch Act was designed to protect the public employe. Restrictions on political activity by civil servants free them from coercion by their superiors. When asked to perform political duty, they need only say, "I can't." Government jobs, and advancement in those jobs, should be dependent upon merit rather than upon political performance.

The proponents of change in these restrictions argue that direct prohibitions on coercion, solicitation, and influence are sufficient to protect the public employe, but opponents of the legislation insist that employes would remain subject to indirect pressure to support candidates favored by their superiors.

If the Hatch Act is repealed, there will be important and inescapable consequences for 2.8 million federal employes and the rest of us as well.

The legislation moves toward clarifying gross ambiguity in the present law, which has left public employes confused as to what is permissible political activity. The law will give new freedom to public employes long relegated to second-class political citizenship. The nature of public employment will be significantly changed. A new cast of activists will enter the political scene exerting a profound influence on subsequent elections.

Will the public suffer? Will those in power seek to turn the civil service into a political army? Will public employes be forced into political servitude? Whether the removal of this cornerstone of our governmental edifice will have the drastic impact predicted by the bill's opponents is impossible to predict. But the chance seems worth taking.

An impressive independent commission and two congressional committees have studied the problem over a nine-year period and found no foolproof answers. If increased political freedom for federal workers proves truly harmful to the efficiency and fairness of the civil service, restrictions on political activity can be reimposed. In view of our overriding commitment to First Amendment political freedom, the H.R. 8617 gamble is justified.

THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, no one has raised serious objections to the purposes of the United Nations Convention outlawing genocide. The primary objections which have been raised since the time the treaty was first considered for ratification by the U.S. Senate have been related to constitutional and legal issues.

An often heard criticism of the treaty is that its passage would adversely af-

fect Federal-State relations by sapping the authority of States on criminal matters. However, this clearly is not the case. Congress has the power to enact such legislation pursuant to the treaty under article 1, section 8, clause 10 of the Constitution which provides:

> The Congress shall have the Power . . . To Define and Punish Piracies and Felonies committed on the high seas, and Offences aaginst the Law of Nations . . .

Thus, making genocide a crime, providing for appropriate punishment, and so forth, are clearly on the checklist of Federal constitutional powers.

Moreover, as the American Bar Association's section on individual rights and responsibilities said in its report:

> Ratification of the Convention will add no powers to those the Federal Government already possesses.

Further, the fact that the Congress enacts a statute pursuant to a treaty, such as the Genocide Convention, does not alter the fact that Congress could pass such legislation without a treaty.

In short, the Genocide Convention will not adversely affect the constitutional division of powers between the Federal and State Governments and, thus, the United States should go on record as opposing genocide, both legally and officially.

NATIONAL IMPLICATIONS OF RECENT POPULATION SHIFTS

Mr. HUMPHREY. Mr. President, I wish to bring to the attention of the Congress the figures recently released by the Bureau of the Census regarding U.S. population shifts during the past 5 years.

The trends indicate a population growth of over 8 percent in both the South and the West during the years 1970–75. On the other hand, growth was almost negligible in the Northeastern States while in the North Central States a 1.9-percent increase was registered.

These trends obviously will carry important implications politically and for the economy of this country. But I am most concerned that this Government take into account these trends in its long-range programs.

Obviously, this shift may very well carry important implications in terms of reducing the increased energy requirements in the years ahead. It may also reflect a determination on the part of many American families to leave the more heavily concentrated urban areas in favor of smaller towns and rural settings.

We clearly need a much more detailed analysis as to why these trends are developing and their implications. This information is needed not only by the Government but also by industry and our educational institutions.

This analytical requirement is met in legislation which I have introduced, S. 1795, on improving our economic planning. Clearly, we can and must do a better job in this area in order to bring together and relate the major trends in our complex economy.

Mr. President, I ask unanimous consent that the article in the December 12 New York Times entitled "85% Rise in Population Found in South and West," which outlines these trends, be printed in the RECORD.

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

85% RISE IN POPULATION FOUND IN SOUTH AND WEST

(By Robert Reinhold)

WASHINGTON, December 11.—The gradual but massive shift of the American population away from the industrialized North and toward the South and West, documented by the 1970 census, has accelerated greatly in the last five years, according to a mid-decade estimate of state populations released today by the Census Bureau.

The bureau calculated that the United States has grown by nearly 10 million persons since the last census—to 213,121,000—and that 85 percent of this growth occured in the 29 states that make up the South and West.

If this trend persists, it is likely to have profound implications for the social and political complexion of the country. Congress will be reapportioned on the basis of the 1980 census, and today's figures point to a tipping of the balance of political power toward what some have called the "sunbelt."

These states—forming a broad arc extending from Montana down through the Rockies to Arizona, and across Texas to Florida and North Carolina—grew at rates far greater than the national average of 4.8 percent.

The fastest growing state was Arizona, whose population expanded by over a quarter. And Florida, which had swelled by nearly one-third in the 1960's, accelerated its growth, expanding by 23 per cent in the last five years.

By contrast, New York State lost 121,000, or about 0.7 per cent, of its residents. Also losing population were Rhode Island and the District of Columbia. Taken together, the dense Northeast and North Central regions grew by only a scant 1 percent.

Behind all these dry numbers are some compelling human and economic realities—the industrialization of the South, the greening of the Arizona deserts, pollution of the wilderness, land swindles, the overnight blossoming of retirement villages and the ungainly emergence of one-time cow towns such as Houston and Phoenix into major metropolises.

Propelling it all, according to demographers and sociologists, is the quest for money and leisure, and, perhaps for some, escape from the decaying and increasingly "unliveable" Northeast.

Today's figures lend credence to the theory that the liberal East is slowly losing its grip on national power to what Kirkpatrick Sale calls the "Southern rim" in his recent Random House book "Power Shift; the Rise of the Southern Rim and its Challenge to the Eastern Establishment."

INDIRECT ESTIMATES USED

The new figures were compiled not by actual count, but by indirect estimate based on changes in birth and death rates, school enrollments, automobile registrations, employment, migration patterns and other data for the various states between April 1, 1970, the date of the last full census, and July 1, 1975. These data are thought to reflect accurately trends in population.

The final estimates were produced by averaging the results from three formulas, which census officials said were consistent, varying no more than 2 percent for any state.

Inasmuch as they confirmed an obvious trend, the numbers were not completely surprising in their thrust. But to some the magnitude and speed of change were startling. The Mounain and Desert states experienced heavy gains—Nevada (21.1 percent), Idaho (14.9), and Colorado (14.7), for example. However, since these states were so sparsely populated previously, these figures are deceptively dramatic.

What is perhaps more interesting, and perhaps less widely noticed, is the sharp growth in the South Central states—Arkansas (10 percent), Texas (9.3), South Carolina (8.8), Georgia (7.4) and North Carolina (7.2). Texas gained more than a million people, nearly the entire population of Maine.

NORTHEAST NEARLY STATIC

Conversely, the counts in the Northeast were almost uniformly static, with the states either losing populaion or growing at rates well below the national average.

New Jersey gained 145,000 persons and Connecticut 63,000, or 2.0 and 2.1 percent growth, respectively. New York State's population of 18,242,000 in 1970 was estimated to have dropped to 18,120,000 by this year. No separate estimates were made for New York City. The only Northern states gaining more than the national average were the New England states of Vermont, New Hampshire and Maine.

There were suggestions that the glitter of golden California is no longer as attractive as it once may have been. Although California, the most populous state, grew faster than the national average, the growth was only half its pace during the previous decade.

There are no "whys" in the statistics, but demographers have offered many economic and social interpretations of what is happening. David Word, a Census Bureau official who helped calculate the estimates, theorized that a major factor in the Southern gain was a change in black migration patterns.

Fewer blacks are leaving the South, he said; at the same time, white families from the North continue to settle in the West and South. The combination, he went on, means little growth in the North.

THREE ESTIMATING METHODS

Three methods are used to estimate state population between decennial censuses. The first, called "component method II," uses vital statistics and school enrollment data from the states to estimate the "natural increase" in population and migration from state-to-state.

The second, "the ratio-correlation method," starts with the percentage change, for each state, in school enrollment, automobile registration, Federal income tax returns and work force. These are specially weighted and then multiplied to give a picture of the percentage change in population distribution among the states.

The last, "the administrative records method," employs vital statistics, along with income tax returns, as a gauge of interstate migration and Immigration and Naturalization Service data for migration from abroad.

The new estimates were published today under the title "Population Estimates and Projections," which is part of the Census Bureau's current population reports (Series P-25, No. 615). It is available for 30 cents, from the United States Government Printing Office, Washington, D.C. 20402.

TABLE ON POPULATION SHIFT

[Washington, Dec. 11—Following is a table of population data on the United States by region and by states, as is issued today by the Bureau of the census]

Region and State	Residential population (in thousands) July 1, 1975	Apr. 1, 1970	Percentage change
United States, total	213,121	203,304	+4.8
Regions:			
Northeastern States	49,461	49,061	+.8
North-central States	57,669	56,593	+1.9
The South	68,113	62,812	+8.4
The West	37,878	34,838	+8.7

Region and State	Residential population (in thousands) July 1, 1975	Apr. 1, 1970	Percentage change
Northeast:			
Maine	1,059	994	+6.6
New Hampshire	818	738	+10.9
Vermont	471	445	+5.9
Massachusetts	5,828	5,689	+2.4
Rhode Island	927	950	−2.4
Connecticut	3,095	3,032	+2.1
New York	18,120	18,242	−.7
New Jersey	7,316	7,171	+2.0
Pennsylvania	11,827	11,801	+.2
North-central:			
Ohio	10,795	10,657	+1.0
Indiana	5,311	5,196	+2.2
Illinois	11,145	11,113	+.3
Michigan	9,157	8,882	+3.1
Wisconsin	4,607	4,418	+4.3
Minnesota	3,920	3,806	+3.1
Iowa	2,870	2,825	+1.6
Missouri	4,765	4,678	+1.8
North Dakota	635	618	+2.7
South Dakota	683	666	+2.6
Nebraska	1,546	1,485	+4.1
Kansas	2,267	2,249	+.8
The South:			
Delaware	579	548	+5.7
Maryland	4,098	3,924	+4.4
District of Columbia	716	757	−5.4
Virginia	4,967	4,651	+6.8
West Virginia	1,803	1,744	+3.4
North Carolina	5,451	5,084	+7.2
South Carolina	2,818	2,591	+8.8
Georgia	4,926	4,588	+7.4
Florida	8,357	6,791	+23.0
Kentucky	3,396	3,221	+5.4
Tennessee	4,188	3,926	+6.7
Alabama	3,614	3,444	+4.9
Mississippi	2,346	2,217	+5.8
Arkansas	2,116	1,923	+10.0
Oklahoma	2,712	2,559	+6.0
Louisiana	3,791	3,642	+4.1
Texas	12,237	11,199	+9.3
The West:			
Montana	748	694	+7.7
Idaho	820	713	+14.9
Wyoming	374	332	+12.5
Colorado	2,534	2,210	+14.7
New Mexico	1,147	1,017	+12.7
Arizona	2,224	1,775	+25.3
Utah	1,206	1,059	+13.8
Nevada	592	489	+13.8
Washington	3,544	3,413	+3.8
Oregon	2,288	2,092	+9.4
California	21,185	19,971	+6.1
Alaska	352	303	+16.3
Hawaii	865	770	+12.3

THE GRAIN STANDARDS CONTROVERSY

Mr. McGOVERN. Mr. President, the horror stories coming out of the port of New Orleans regarding bribes, corruption, and short weighing have been well publicized in publications such as the Washington Post, the Des Moines Register, and the New York Times. These reportings have been in continuing and day by day focus indicating the results of congressional hearings and the results of guilty pleas and trials in the Federal court system.

In a recent issue of New Times, Stephen Diamond and Stephen Armbruster do a first rate job of pulling all these diverse men and events together in a lengthy article entitled "Against the American Grain. The ultimate and most innocent loser in this whole drama is, of course, the American farmer. The product of his land refined by his machines is unequaled on the planet for both its bounty and its quality. It ends up in international channels adulterated, misgraded, mishandled, corrupted by money changers, shippers and grain handlers, all of whom are making a fast buck on the original producer who is having a hard time making ends meet.

I invite every Member of this body to read the whole article as a total perspective of a deplorable system which must be corrected. It is in my opinion an eloquent and persuasive testimony for the proposed legislation now being prepared in the Congress. I ask unanimous consent that the text of the article be printed in the RECORD.

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

AGAINST THE AMERICAN GRAIN

(By Stephen Diamond with Stephen Armbruster)

Pumping hard to push her load to payoff point, the big tug *Dolly K* is winding her twin Cummins 8000s up to high-whine rpms. Eight huge barges head the snakelike parade; pushed by the tugboat, each of these barges carries approximately 1,200 tons of No. 2 hard red winter wheat, enough grain to keep any self-respecting McDonald's addict burger buns for the next thousand years.

A mild fog hangs over the Mississippi tonight, a cool, murky vapor tinged with a touch of evil. The skipper settles in to navigate the final stretch between Baton Rouge and the riverbank town of Destrehan, some 18 miles above New Orleans. At Destrehan, the megabushels of grain will be sucked up into a huge elevator complex owned by one of the grain trade giants. There, the grain will be inspected, dissected, weighed out and resurrected before export. It will not be the same when it leaves.

At well past 3:00 in the morning, the skipper presents his bills of lading to the foreman on duty at the grain elevators: 320,000 bushels of No. 2 Iowa-grown wheat, ultimate destination, Cairo, Egypt.

The foreman signs the skipper's papers and extracts a sample of the wheat as it is drawn out of the barges and up through a long vacuum tunnel. The grain travels on a three-and-a-half-foot-wide conveyor belt up into the mammoth cement-encased grain elevators. There is something biblical in the scene, perhaps a reminiscence of the Pharaoh's storage silos in the time of Joseph's prophecies. A normal, predawn experience down at the nether end of the Mississippi River, but inside the grain elevators all is not quite kosher.

The 320,000 bushels of No. 2 hard red wheat are officially weighed in as 280,000: A rewritten bill of lading complements the newly entered figure. Of the eight men on duty, three key people are in on the game: the foreman of the elevator company, the company's weighing inspector and the man from the "private" inspection agency. Night is the traditional time of crime, and on the wharves at the end of the Mississippi things are no different. Moreover, the federal grain inspectors are badly understaffed. They spot check 2 percent of the time at best. And tonight they are not around. The grain elevator company is now 40,000 bushels richer, a value conservatively estimated at $120,000. Of this, maybe 10 percent or $12,000, will be paid to the boys in "bonus" payments or overtime.

A week later, the 280,000 bushels will have been blended into a lesser grade, made into No. 3 or 4 by legally adding organic "trash," or "allowable percentages of foreign matter." It then becomes part of a million-bushel shipment headed to Cairo and purchased under the Food For Peace program, Public Law 480. Although certificates claim the wheat to be No. 2 quality, it is closer to No. 4. But who's to complain?

"It's like guys who deal grass," a long-haired, overalled longshoreman told us. "They buy a pound of good Colombian, mix it with two pounds of ——— weed, and somehow they come out at the other end with three pounds of dynamite Colombo! If that ain't enough, they short you a couple of ounces for their trouble. The grain companies ain't no different, except they're dealing in millions of pounds and billions of dollars."

Like most major scandals, the current grain trade commotion centered at the crescent-shaped Port of New Orleans began with the small stuff: nickel-and-dime thievery and the rumor that a ship captain had bribed an inspector to pass a vessel that was unclean.

In the 18 months since the New Orleans investigation was initiated by the U.S. attorney's office here, the scandal has mushroomed into a widespread indictment of the American grain trade, our national system of inspection of grain and even the Department of Agriculture itself.

The dimensions of the scandal are difficult to assess at this point. Fifty-seven individuals and four corporations have been indicted, of which 43 persons and two companies have either been convicted or copped pleas on charges ranging from misgrading grain, short-weighting loads bound for foreign ports, bribery and extortion, income tax evasion and even conspiracy to commit large-scale thefts by corporations of their own customers. As the Watergate "burglary" proved to be a mere preamble, so the grain scandal centered in New Orleans is but the tip of an iceberg: As a result of a combined investigation by the U.S. attorney's office, the FBI, IRS and USDA's Office of Investigation, two senatorial subcommittees have met to discuss the problem, and "emergency legislation" is pending.

Last month, the Bunge Corporation, one of the Big Six grain trade giants, pleaded nolo contendere to two counts of systematically looting grain from its own customers over a 12-year period. The rumored estimate of the amount of theft is said to be in the neighborhood of $5 million, though it could easily be much higher.

But it is not the amount of outright theft, bribery and corruption that is of utmost significance in the grain game: The Port of New Orleans scandal has brought to light a thoroughly unmanageable grain inspection system—a mixed marriage of private and federal—through which the Big Six conglomerates have been allowed to run rampant for more than a decade. These six multinationals control 90 percent of American grain exports, approximately $11 billion worth of annual sales. Their corporate power overshadows the private agencies that are supposed to regulate the grain traffic, and they overshadow the USDA as well. When the results are finally in, it may turn out to be the biggest financial debacle of the century.

As much as this nation apparently depends on the Arabs for oil, that much and more so does the world look here for its food supply. The United States has earned the somewhat dubious nickname "The Saudi Arabia of Wheat."

More grain passes through the Port of New Orleans than any port in the world. This area exports one-third of all feedgrain (wheat, soybean, oats, corn, barley, etc.) leaving this country, over a billion bushels annually.

Blessed with an abundance of good cropland, the American farmer can produce far more grain than we could possibly use for domestic consumption. The exportable surplus becomes a "powerful weapon in the political toolkit," as Secretary of Agriculture Butz has termed it. But more important, grain is a major factor in balancing the American trade deficit: In fiscal 1974 the grain export trade amounted to some $12.5 billion out of $22 billion in overall agricultural exports.

The American farmer has been urged by his government to plant every available acre; he has been "educated" by its agent, the Department of Agriculture, to use the most scienterrific methods, chemical fertilizers, high-yield seed, powerful bug killer, and he has come to rely on some very expensive harvesting machinery. He gambles against

the weather, insect plague, early frost and other acts of God. This year he and the others of his fraternal order have succeeded in growing a record crop.

But once out of his hands, the harvest falls into the realm of speculators, processors, merchants, carriers and inspectors. And many months later, the farmer will read in his airmail copy of the *Des Moines Register* that grain buyers in Mexico, Germany, Israel, Spain and even Russia are complaining of receiving a product inferior to that for which they'd agreed to pay. The complaints escalate, ranging from excessive moisture to misgrading of grains and large-scale repetitive short-weighting of the ordered load. The farmer feels personally accused. The grain was perfect when it left the farm. Not only is he being ripped off by the grain companies when he sells the product, he's also being bad-rapped by the foreign customer.

"We heard a rumor back in early 1973 that an inspector had taken a bribe from a company to pass a ship that wasn't clean," recounted Assistant U.S. Attorney Neil Heusel, a former FBI agent. "We checked it out and quickly saw that it was not an isolated incident." Shortly thereafter, the U.S. attorney's office joined forces with the FBI in the New Orleans area and the USDA's Office of Investigation. This last agency, whose task it is to examine departmental complaints and irregularities, had been dragging its feet, to say the least, until the appointment in 1973 of Harlan L. Ryan as chief of the USDA's Grain Inspection field office.

Called a "witch-hunter and a troublemaker" by some, Ryan, 47, carried a reputation from Des Moines and Chicago of effective and persistent reform. Soft-spoken but obviously tough-minded, he grew up on a soybean farm in Iowa and saw his father gypped at the local grain elevators when they would bring in the crop at the end of the season. Now, 35 years later, he is shaking up the waterfront at the Port of New Orleans:

"Frequently I have to go out at all hours of the night, maybe to back up one of our fellows. They have tremendous pressure put on them by the elevator superintendents." (Ryan uses the soft understatement employed by many government people who'd like to tell you more only their lips are sealed for obvious reasons.) "I saw things going on when I first came down here which I knew weren't right." Ryan's efforts initially resulted in the impaneling of a federal grand jury in August 1974, and indictments soon followed.

Among the first to be charged were 20 "private" grain inspectors. It was their responsibility to maintain uniform standards in the grading process. The price the foreign customer will pay is determined most often at this point. Both the "private" and USDA inspectors use a system of classification codified by the U.S. Grain Standards Act of 1916, amended in 1968.

But built-in conflicts of interest make it well-nigh impossible to trust the private inspector's impartiality. The men and the companies they work for, so-called boards of trade, must be licensed by the USDA, but their cash livelihoods depend on the grain companies they are supposed to regulate. The "private" inspection agencies are paid for each shipment they certify before loading, yet the sheer volume of the loading operation defies a careful grading. One export elevator can load a ship in excess of 100,000 bushels per hour. It would be hard to make a careful survey in any event. But why should they try? It is obviously in the better interests of both parties to rush the inspection process.

"It's still going on," Harlan Ryan says solemnly. "They're just doing it more in the dark, underground."

The private inspectors are also in charge of certifying ships as being clean enough to take on foodstuff. Cargo holds can contain petroleum residues from previous hauls, excessive moisture, rats, weevils or even odors that can ruin grain. A shipper stands to lose between $3,000 and $20,000 a day in demurrage charges if its cleanliness certificate is withheld. A $2,500 "gift" to an inspector comes out cheaper any way you slice it.

But the federal inspection agent, Ryan's men, are empowered to answer only specific appeals cases and to make periodic spot checks of their private counterparts. These have proven to be a very feeble deterrent. The private inspection agencies handle well over 90 percent of the bulk grain loadings with a labor force that outnumbers the federal inspectors by more than a hundred to one.

"It's far from over," the assistant U.S. attorney explains. "This investigation will go on for at least another year. We'll be looking into each of the grain elevator companies in this area." But New Oleans is only one port, and "problems" have already surfaced at others around the country—the incidents here are only symptomatic of the larger disease rampant in the American grain trade.

BITTER GRAPES

"Your attitude . . . to me, typifies the attitude of the Department of Agriculture to this whole subject of grain inspection: delay and inaction."—Chairman Sen. Hubert H. Humphrey, to Undersecretary of Agriculture J. Phil Campbell, on opening day of Senate subcommittee hearings, 6/19/75.

The Senate Subcommittee on Foreign Agricultural Policy opened its doors for business on June 19, just as the stench from New Orleans was making its way upriver. On paper, Humphrey's subcommittee, which included senators from such agribusiness states as Kansas, South Dakota, Iowa and Florida, had convened with the express purpose of looking into "Grain Inspection Irregularities and Problems and to Provide Emergency Authority to the Secretary of Agriculture to Restore Confidence in the U.S. Grain Inspection System." But the man to whom this "emergency authority" would have been delegated. Secretary of Agriculture Earl Butz, was out of the country on a speaking tour of Venezuela and Brazil.

Right off the bat, Humphrey brought up the issue of the "Browning Report." Written in January of 1969, this document covered the visit of a "situation team" led by James Browning, a USDA official, to the United Kingdom and other countries of Western Europe. The visit was initiated by complaints received from European grain buyers in preceding years. Browning was overwhelmed by the scope and consistency of complaints:

"Mr. Schmittman of Denka, Dusseldorf, said he had spent 15 years in feed processing and year after year the quality of corn from the U.S. has been declining. Mold has been increasing, broken corn and foreign material has been increasing; moisture that was formerly 10% is now 15%, some corn with 15.5% moisture had a sour and stuffy smell and had to be discharged. . . ."

In addition, Browning found that the Europeans were incensed over our penny-ante system of fines for faulty inspection:

"One of the astonishing statements made [in Italy] was that in increasing fines for mishandling or misgrading grain from $1000 to $5000 under the new act [1968] we did not go far enough, that it should have been $100,000 because they felt the shipper stands to make $50,000 or so. They felt the fine was not large enough to be a deterrent to stop either the shipper or the inspector from bribery."

After listing the complaints from the U.K., Italy, Germany, Portugal, Spain and Belgium, Browning himself concludes in a somewhat shaken manner:

"The Grain Division [USDA] should make doubly sure that there is no bribery of inspectors or falsification of certificates or misgradings of grain or improper sampling . . . . After listening to complaints for 3 weeks and seeing the look on people's faces and in their eyes when they accused the inspection system of being subject to bribery, I cannot stress too strongly. . . ."

That report was issued more than six years ago, and the foreign complaint department had certainly not slowed in the time since then. In May of this year, prior to the New Orleans indictments, a Spanish grain company, Kelsa S.A., complained that ships arriving from the ports of Philadelphia and New Orleans were often missing as much as 3 percent of the ordered loads.

Undersecretary J. Phil Campbell, Butz' stand-in at the hearings, claimed that neither he nor any of the top USDA officials had ever heard of the Browning Report until it was brought out in the *Des Moines Register* and the *New York Times*. Campbell insisted that the Browning Report was not an "official" document of the USDA and never had been.

But the senators had other questions for USDA officials on the carpet: How was it that in the eight years between 1966 and 1974 the number of active agents in the USDA's Grain Inspection Division had been reduced from 300 to 220 men, while in the same time period the volume of exports-to-be-inspected had doubled? Was the USDA tying its own hands behind its back?

And what of the Griffin incident? In 1971 a USDA Grain Division man named W. W. Griffin stationed in the New Orleans field office reported the discovery of phony grain gradings and other irregularities. He filed a series of reports to his immediate supervisors, only to be rebuffed. When he presented the matter to the USDA's Office of Investigation, Griffin was told not to bother his superiors with trivialities. At the Senate hearings, the USDA officials could not answer on the topic of the Griffin case: Two weeks later they submitted a brief listing the facts but were still unable to identify the superior who'd clamped down on Griffin's complaints.

At another point in the hearings, Francis Riley, a 44-year-old chicken farmer from Boaz, Ala., and chairman of the Alabama Poultry and Egg Association, told the senators about the time he tried to buy corn from Cargill Corporation, the biggest of the Big Six traders:

"It was shipped to me as No. 2 corn, of which I'd ordered 25,000 bushels, but it included 11.8 percent of broken and foreign materials, trash, and was 4.7 percent oats. I have the grade with me. Purchased as No. 2 and shipped to me as No. 5.

"But you simply cannot blend and feed No. 5 corn to poultry and get results. It will not work. The blending practices as practiced by the grain companies today are outright criminal and should be treated as such. A hen cannot eat enough of a low-test weight or light-weight corn to maintain a body and lay. It just doesn't work that way.

"If I sound like it is bitter grapes, it really is, because there is not a grain company in the country today that I will trust any further. And I have been in business with them and tried to work for them for 25 years and have come to the conclusion that there is not a one of them that can be trusted."

Robert Johnson, a former New Orleans USDA Grain Division inspector, told the senators of threats on his life after he'd forced the Bayside Grain Elevator in Reserve, La., to unload a shipment that contained high percentages of sour grain:

"Rumors began to circulate that both my kneecaps would be broken, that there was a contract out on my life," the former inspector testified. Since quitting the USDA, Johnson has changed his name and address, carries a gun and generally keeps a low profile. His case was complicated (or

strengthened) by the fact that he'd admitted to taking a bribe several years earlier. Placed on a probation of sorts, he apparently absolved himself by becoming a tough inspector.

"In spite of what he'd done in the past, he was a good inspector. I don't know if he turned over a new leaf or what," says Harlan Ryan of his former agent. "Johnson did a good job and he became very much disliked on the riverfront. The inspection agencies would call me up as soon as he'd been there and complain. It was that way all along, but they could never prove him wrong. As far as the threat itself, I'd say it was real enough, but none of our other men has been threatened like that."

Johnson's testimony before the senators highlighted the strain placed on USDA field office personnel at the lower levels. They worked under limited circumstances, attempting to police the numerous private inspectors, inspection agencies and grain elevators, while at the higher echelons USDA officials maintained a policy of no see, no hear, no speak.

The matter of Butz' absence during the early weeks of the Senate subcommittee hearings would warrant no special notice but for two coincidences: (1) The week before Sec. Butz left for Brazil, Jorge Born, president of Bunge & Born, Lda., of Buenos Aires, had been released from nine months' captivity by Montonero revolutionary forces. The firm had paid a reported $60 million—the highest ransom ever for a kidnapping—and Mrs. Peron's government was enraged that so much money had fallen to their enemies. As a result of the uproar, the entire directorate of Bunge & Born temporarily transferred their operations to the firm's Rio de Janeiro offices in Brazil. They were all in Rio at the same time. (2) Less than a month after Butz' return from South America, the Bunge Corp. (USA) and 13 of its employees were indicted with conspiracy to defraud their own customers, the first (with more to follow) of the grain giants to be so indicted. We called Butz' office and asked whether he'd met with any of the Bunge executives in Brazil and whether they might have discussed the growing grain troubles up north.

"Well, Dr. Butz may have talked with them in the cocktail line after his speech at the American Chamber of Commerce down there, but he certainly did not discuss the forthcoming indictments," a spokesman said.

20TH-CENTURY PIRATES

". . . the American farmer has never produced a higher quality grain, and yet foreign buyers have increasing complaints about the deteriorating quality of our grain on delivery.

"Obviously something is happening to the grain along the way. I suspect three or four things are occurring.

"1. Our inspection system is faulty and corrupt.

"2. Our grading standards are inadequate.

"3. Our grain handling methods need revision, and

"4. Six major grain trading companies so monopolize the grain trade and all its aspects that effective regulations can be thwarted by their size and political influence." Sen. Dick Clark (D-Iowa), at Senate subcommittee hearings.

The Grain Trade, ala the Big Six, is the multinational conglomerates that control 90 percent of the $12.5 billion in exports from this country to the rest of the world.

Their names are Cargill, Continental Bunge, Louis Dreyfus & Cie., Cook and ADM (Archer-Daniels-Midland). The first four are privately owned and thus do not have to file with the federal Securties and Exchange Commission. Cargill and Continental dealt 50 percent of that $11 billion. Bunge took 20 percent and the other 30 percent was split among the last three.

But what "multinational" really means is that these conglomerates cannot be policed by any one individual nation. Their billion-dollar holdings, subsidiaries and vertically integrated offsprings are too far-flung across too many international borders to ever be held in check.

*Cargill**

At the top is Cargill, a firm that for the past century has quietly become one of the nation's largest corporations, probably the largest privately held corporation in the U.S.

Cargill's sales are in the billions, 3 billion in 1972. . . . *Fortune's* listing of the largest 500 industrial corporations in the U.S. shows 26 with bigger sales than Cargill's. Ranking well below Cargill's sales . . . are Bethlehem Steel, Kraftco, Lockheed, Tenneco, Greyhound, General Foods and Dow Chemical.

Cargill's reign in grain is mainly in conveying. Cargill is a handler and trader, storing grain and seed-oil in a massive complex of elevators at more than sixty locations. Cargill's total storage capacity of 180 million bushels is almost 2.5 times as great as the total storage capacity of ADM, a grain trade rival.

Gargill loads grain from its elevators onto its own barges, trucks, railroad cars and ships, using mechanical grain handling aids developed by its own researchers. The company maintains plants and offices at more than 250 North American locations . . .

The Big Six are pirates in the oldest tradition. The flag they fly is the Jolly Roger, the black flag of no nation, and their inner dictum is *secrecy über alles*. For years these 20th-century pirates have gotten away with unchecked highway robbery; government personnel readily admit that the Big Six not only have farmers and consumers over a barrel, they've got the whole planet over that barrel.

*Continental**

Business is good—a conservative estimate puts Continental's sales at $2.5 billion, Continental is large and diversifying, moving from the shadows of the grain trade world into consumer products. . . .

[Michel Fribourg] controls the company in a bizarre manner for this age of corporate managers. He owns more than 90% of Continental's stock. *Business Week* says, and "separating his personal holdings from those of Continental Grain is difficult and probably academic."

His personal holdings are extensive:

There are at least 100 companies under the Fribourg umbrella and new ventures in many new markets are being added regularly. American housewives buy Fribourg's Oroweat bread, his Polo Food frozen dinners, and his Hilbun chickens which are fattened on his Wayne feed. Pets eat Ful-O-Pep animal food. Industrial plants and private homes are located on Fribourg's vast real estate holdings in such places as France, Morocco, Switzerland, Staten Island and Long Island. Some 50,000 head of cattle graze on Fribourg's acres, and his Argentine supermarkets are supplied by Agricom, his food distributorship.

"Look," a USDA Grain Division man told us, "grain has got to keep moving. These companies are the only ones with the power and efficiency to handle the volume of traffic." The USDA official lights a cigarette, and the drab metallic furnishings of his office seem to mirror his personal helplessness: "The grain trade controls the barges, railway vehicles, ocean-going tankers and, of course, they've got the capital all locked up. If the department, or even the U.S. Congress were to come down on the grain trade, hell, the whole economy would go down the drain in a flash."

*Bunge Corporation**

Bunge Corp., with U.S. headquarters in New York, is one of the most privately held grain trade corporations. It is by one account the third largest in the world, second only to Cargill and Continental. But Bunge has kept the cloak of secrecy more tightly drawn around its operations than the others have.

Bunge is the U.S. arm of Bunge & Born, Lda., a vast, little known Buenos Aires-based conglomerate that controls 20% of the world's grain shipments, according to *Business Week*.

Bunge's storage capacity is around 100 million bushels. The corp. maintains offices and agents in 80 foreign countries; has 22 river, five interior rail, and four port terminals and 100 country (inland) elevators in the U.S. It operates 105 barges with total tonnage of 93,380 gross tons, and controls 75,000 railway cars. . . .

The Big Six keep in constant touch with their subsidiaries and other worldwide trade connections through the most sophisticated communications networks—their financial "espionage" units would make the Shah of Iran envious. It is not uncommon for CIA personnel to court their private enterprise counterparts in an effort to pick at each other's data.

The grain trade can, and most certainly does, manipulate the futures and commodities markets world over. First and most obvious, they are buying and selling in volume with a capital V: second, their mega-computer brains keep a precision watch on the variables of planetary weather conditions, climate reorganization, employing all available data feeding it through their hardware in order to predict the rise and fall of world agriculture, and third, as far as U.S. exports are concerned, the Big Six have a particular magnetic sway over the directorate of the U.S. Department of Agriculture.

REVOLVING DOORS

"Butz said the investigators have no evidence at this point that any Agriculture Department employees or grain company officials were involved in unlawful conduct.

"'That's not saying they weren't,' he added. Every man has his price.'"—Reported by James Risser in the *Des Moines Register*, 5/30/75

They call it the Revolving Door Policy because the man comes in from the "private sector," spins around a bit in government service, then goes out right back where he began.

The most obvious case, and probably the one responsible for the moniker, was the appointment of Dr. Earl Butz by President Nixon in 1971. Butz had been serving on the board of directors of Ralston Purina, a major domestic grain company. The man Butz replaced as secretary of agriculture, Clifford Hardin, returned to private life and joined Butz' alma mater, Ralston.

The current director of the USDA's Export Marketing Service (EMS) is George Shank-

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*The Agribusiness Accountability Project, a Washington based nonpartisan public interest group, has done several excellent in-depth studies of which *The Great Grain Robbery & Other Stories* by Martha M. Hamilton and others is the best. The book spells out grain trade corruption focusing on the Russian wheat deal of 1972, and not coincidentally serves as an indictment against the USDA and its pro-Big-Six policies. All quotes are from the same book, Agribusiness Accountability Project, c. 1972, 1000 Wisconsin, Ave., N.W., Washington, D.C. 20007.

lin, who for the seven years previous to his appointment had been in charge of Bunge Corp.'s Washington office. Lucky Shanklin didn't even have to "relocate." In July, during the first big wave of New Orleans grain indictments, Shanklin was quoted in the *Wall Street Journal* as saying: "Whatever it is [in New Orleans], I'm sure it's not this inspection thing."

There are many others who have gone through the revolving door process, and though it's a cute concept, the repercussions on the American farmer and consumer are deadly serious.

A glimpse as just one aspect of the disastrous Russian grain deal of '72 can give us sufficient view of the arrogant attitudes held by the Earl of Agriculture and his sheriffs:

At the outset of the deal, there was the suggestion that the U.S.S.R. and the U.S.A. make their deal on a one-to-one basis, government-to-government. The bulk of the grain purchased would come from official USDA warehouses, government-owned surpluses; unfortunately, it didn't go down that way.

The first American negotiating team dispatched to Moscow was headed by Butz himself, but it was Assistant Secretary Clarence D. Palmby who was pulling the toggle switches. Several weeks prior to leaving for the U.S.S.R., Palmby had been offered (and was seriously considering) a high post with Continental Grain. Needless to say, this high-level public servant did not discuss the conflict-of-interest job offer with anyone in the USDA before or during the negotiations with the Russians.

William Robbins, the *New York Times* man whose reports have added fuel to the New Orleans grain caldron, captures the spirit of the Palmby *affaire* in his excellent work *The American Food Scandal* (1974).

A government-to-government deal would have had advantages. It would have given responsible officials a precise knowledge of what the Russians were receiving from U.S. stores; it would have had a restraining influence on the price spiral that accompanied heavy buying from private stocks.

Palmby flatly turned down the direct purchase proposal. Whatever deal should be made, he said, would have to be channeled through the private grain companies.

One of the more quixotic twists of the grain game is that the USDA subsidizes these multinational, multibillion-dollar dealers. The price of American-grown grain is always substantially higher per bushel than the world market price. In order for the grain merchant to "compete" on the world market, someone has to make up the differentials—the taxpayer, through USDA subsidies, has the pleasure of providing the grain pirates with builtin guaranteed profits. In fiscal 1974 the USDA paid approximately $350 million in subsidies to the Big Six and others.

In point of fact, the Russian wheat burn of '72 hinged on assurances by the USDA to Cargill and Continental that the subsidies would be continued in full through the term of the deal. Before the final "bargain" was struck (at an estimated cost to the American consumer of $3 billion a year in higher food prices). Continental's executives had the assurance from Carroll Brunthaver, Palmby's replacement, that the USDA subsidies would be there. Brunthaver, by the way, came to USDA from Cook, another one of the big Six.

The system is not one of outright bribe between the grain trade and the USDA, it's more like an indirect form of payola—"deferred rewards," as the Agribusiness Accountability Project has termed it. The Palmby episode is a perfect example.

THE WELL-GREASED GRAPEVINE

"Right now they're using floating rigs, and we have the suspicion that the quality of grain going on board from the floating rigs isn't necessarily that which it has been represented to be on the certificates . . . in some cases. . . ." Inspector Ryan adds the last words as an afterthought. He shows us a professional photographer's color portrait of the "floating rig," a recent innovation in the grain game. It consists of a huge crane operation and platform seated on an anchored vessel out in the Mississippi. The floating rigs act as intermediate elevators, receiving the grain from inland barges and loading it directly onto the ocean-going freighters. The grain never touches land, thus bypassing the grain elevators and making the federal grain inspector's life even more difficult.

"We have no way of getting onto the floating rigs without everyone on the waterfront knowing about it," Ryan says ruefully. The fifth floor window of Ryan's office in the Federal Building on Loyola Avenue looks out at the construction skeleton of a 25-story hotel, and next to it, the ominous oval of the Louisiana Superdome.

"When we go out to inspect the floating rigs, we go on the public launch. Word gets passed along that way. Before you even get there everyone knows you're coming. And when you're out there, the launch comes back and calls last trip until 7:00 in the morning. Either you stay there till 7:00 in the morning, or you get off then and there. Most of the big companies are using floating rigs, in addition, of course, to the regular elevators, partly because of this year's record crop. And the floating rigs can move up to 30,000 or 40,000 bushels per hour."

Ryan's task is certainly no bed of roses, and though there has been no outright violence so far, the threat constantly lingers beneath the waterfront surface. Aside from the millions, if not billions, of dollars involved at the Big Six level, there are literally hundreds of jobs at stake, not only in New Orleans but at the other ports around the nation.

Although there are no heroes in this story, Harlan Ryan comes closest to the role. His persistence in bringing much of the New Orleans mess to the surface was instrumental to both the grand jury's revelations and the later inquiries conducted by the senators.

"The rumor came to me that there were two petitions drawn up to have me put out of New Orleans. . . ." Again Inspector Ryan hesitates, not vain but matter-of-fact about his popularity. "The petition was initiated by one of the boards of trade down here. I heard of it from a manager who'd been asked to sign one petition but refused. These things get around very fast, the grapevine on the waterfront is well-greased. The petitions were intended for someone in Washington, I don't know who, but they never made it that far."

THE BIG "FINAGLE"

"The most glaring deficiency lies in the present grain inspection system. It is barely a system at all, but rather a confused hodgepodge of private, State, and Federal."—Sen. Dick Clark (D-Iowa) in The Congressional Record, 8/1/75

The Destrehan Board of Trade (DBOT) is housed in a small, one-story building 35 yards from the mammoth Bayside Grain Elevator, which is at least 100 times larger than the trade office. Senator Clark has called them "sweethearts," and it sort of looks that way from the physical layout—the muscle-bound macho grain giant and its pert little mistress, the private, nonprofit inspection agency. In the late afternoon sun, the shifts are changing, wives are driving up to the gate to wait for their men. The cement elevator seems almost like a mighty power plant—and perhaps it is, a foodpower plant.

We were not allowed to see the inside workings of these overgrown succubi, with their miles of conveyor belts streaming back and forth with billions of kernels, feeding in and bleeding out 100,000 bushels per hour. The giants shun the public's eye on their facilities as well as on their finances: "Sorry, against regulations," said one grain elevator office. "Definitely not," Continental told us. "We're expanding and the insurance people wouldn't like it." "Not until this inspection mess is over with," came word from the Cook Company's main office. The plant manager at the St. Charles Elevator Company allowed as how he couldn't let us in for a look "without the owner's consent. I work for them and I do what they say." Other efforts only accumulated unreturned phone calls and polite refusals.

"That, indeed, is where they make their profits," says Dan Willis, 38, chief inspector for the Destrehan Board of Trade, and he points out through his office window at the fortresslike grain elevator. "The law sets the percentages for allowable foreign materials, and they'd be foolish to sell anything better than it has to be. When the elevator companies blend it to the limit, they control the quality and also maximize their profits." Willis supervises DBOT's nine inspectors, who rotate between this facility and another similar one at Bunge's elevators down the road. Five of the men have "full" licenses—they're authorized to grade and weigh all types of grains, while the other four are limited to particular categories. In the past year, two DBOT inspectors have been indicated on charges of bribery and their licenses subsequently revoked by the USDA.

The DBOT is one of the private inspection agencies operating in New Orleans. Founded in 1961, the agency came to life at the same time as Bunge Corp. rebuilt its elevators after a disastrous fire. DBOT's leader these past 14 years, Bryan J. Lehmann Jr., is a former state representative who did legal work for Bunge before starting his inspection agency. Lehmann told Senator Clark's committee of inquiry that the grain giant had "loaned me $10,000 or $15,000. I don't recall which," when he first got DBOT off the ground. The loan was "advance payment" on subsequent fees for inspection that DBOT would later perform for Bunge. In spite of the apparent conflict of interest right at the outset, the USDA gave Lehmann his license.

"Do the grain elevators ever exceed the legal limits of blending?" we asked Willis.

"No, not to my knowledge," he replied. "It's not really my department. If someone's finigelin' with the scales, it's the elevator people themselves, not us. It's also feasible that someone could get inside the scales and finigle with them, too."

Just such a method had actually been in operation at the Bunge elevators. A secret switch had been installed so that the Bunge superintendent could put the weighing scales on "hold" and then be free to write in any weight he chose. This was one way the elevator built up large pilfered surpluses. An obliging middleman would then "fence" the stolen grain and split the profits with the grain company. Bunge's fence was the Degelos Bros. Grain Company, operating under several names out of New Orleans and keeping its cash in Bahamian bank accounts. They would arrive at the elevators with appropriate barges and boxcars and misleading papers, pick up the load of "skimmings" and sell it on the open market. But the hometown heroes couldn't always cover their tracks and on occasion had to call for help from the New York office. Phony documentation for the movement of the grain was drawn up, and thus it came to be recorded in company history that a certain barge delivered 54,981 bushels of corn on February 15, 1968, when it was in fact hauling aluminum from Paducah, Kentucky.

So far 13 Bunge employees, including two high-level vice-presidents, have been indicted and have pleaded nolo contendere to the charges of stealing from their customers,

but there are clearly plenty more thieves on the waterfront yet to be discovered.

Two weeks after the Bunge indictments in July, the grand jury brought similar charges against the neighboring St. Charles Grain Elevator Company, owned by Adnac, a joint venture of ADM and Garnac of Switzerland. Adnac and six of its high-level executives are accused of conspiring to steal grain from June '71 to June '74, causing grain inspectors to falsify certificates and defrauding the government by interfering with the regulatory functions of the USDA. The Adnac indictments also pinpointed instances where large quantities of grain were listed as having been loaded on ships when actually the grain never left the elevator. It further revealed that the elevator employed a secret conveyor belt that would draw pools of "trash" and cheaper grains out to the loading platform, bypassing inspectors and automatic sampling devices along the way. In all, the company has been charged with nine overt acts in violation of the conspiracy statutes.

In still another case, the Mississippi River Grain Elevator Company (MRGE), of Myrtle Grove, La., has been charged with systematic theft of entire bargeloads of diverted grain. These transactions also involved Degelos Company as the "fence." Evidence documents that at least $817,612 in illegal income accrued to the conspirators. MRGE was in the habit of substituting cheaper stock on orders for soybeans and would reserve top-quality beans for the elevator's owner, Italian magnate Serrafino Ferruzzi. Ferruzzi is one of Europe's largest soybean processors. His purchases from MRGE were listed as low-grade, low-price stock when in fact the stock he was buying was the best. A Feruzzi employee who worked upriver at the firm's loading terminal in Davenport, Iowa, was asked by Senator Clark if he had been requested to misgrade corn. "I wasn't asked," said John Leese to the senators, "I was told." Leese also suggested that Ferruzzi's inland sales were habitually adjusted to short-weight the farmers.

In late October it was revealed that Ferruzzi actually owned part of the Delta Weighing and Inspection Bureau, which had been licensed to inspect Ferruzzi's traffic. In an unprecedented action, probably a result of the intense media and senatorial heat, the USDA revoked Delta's inspection license. Delta is the first of the private inspection agencies to be put out of business, but indications are that there will be others.

On October 8, 1975, a federal judge in New Orleans District Court fined the Bunge Corporation $10,000 on two counts of conspiracy, at Galveston and at New Orleans, for systematic theft over a 12-year period. "A slap on the wrist" is admittedly a hackneyed cliche, but remember, the corporation does more than $2 billion a year in gross sales—the $20,000 fine was probably far less than they paid out in bribes over six months. Echoes of the European complaints to Browning of penny-ante fines come rebounding back as if through a grain tunnel.

In the judgment, the corporation agreed to establish an "affirmative action program" aimed at preventing recurring theft. The U.S. attorney's office offered the self-policing measures as a condition for dropping other parts of the conspiracy charges. The new program also calls for stricter auditing procedures, increased federal inspections and a brand-new battery of automatic scales. The clean-up applies to all five Bunge export terminals, not just the two convicted.

"The other three were voluntary on the company's part," Assistant Attorney Heusel said. "And it's a good decision. It might save investigators in those other places a lot of time." But it is important to remember that these self-improvement measures are—ultimately—voluntary. Like the other grain traders, Bunge's financial records still remain flush to the vest; and the company continues to maintain favor in high places in the event of a really serious crunch.

Back on Capitol Hill, Senator Humphrey's bill to provide emergency authority to Secretary Butz has passed in the Senate but lingers in the House. Behind it, a bill by Senator Clark proposing total federalization of the grain inspection system waits for an audience in the Senate. Yet both pieces of legislation are being held in abeyance pending a GAO report of the whole shooting match, as requested by Senator Humphrey. The GAO study is not due until late February 1976. By then much of this fall's export harvest will have left the country—likely as not, laced with mold, weevils, organic "trash," petroleum residue and rat droppings.

THE PANAMA CANAL: MYTH VERSUS REALITY

Mr. NELSON. Mr. President, a great deal has been said and written about the Panama Canal during this session of Congress, and we can expect that this troubling issue will be very much with us in 1976. The Washington Star of December 14, contained an article by Ellsworth Bunker, an ambassador-at-large with responsibility for negotiations on the status of the canal. Ambassador Bunker's remarks are a succinct and cogent examination of some of the historical, political, and economic factors at work in United States-Panamanian relations. I commend his remarks to the Senate for a concise analysis of U.S. interests in Panama, and ask unanimous consent that the text of this article be printed in the RECORD.

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

[From the Washington Star, Dec. 14, 1975]

EXPUNGING PANAMA CANAL MYTHS

(By Ellsworth Bunker)

The Panama Canal negotiations have evoked emotion, controversy and opposition. But I am convinced that much of this opposition stems from a number of false impressions about the basis for our presence in the Canal Zone.

Political realities make it desirable, in my judgment, to bring the negotiations to an early and satisfactory conclusion.

But our presence in the canal has a constituency among the American people—while our negotiations to solve our problem there do not. So, if we are to gain support, we must find it through candid and reasonable public discussion.

Our story begins 72 years ago. In 1903 the newly independent Republic of Panama granted to the United States—in the Hay-Bunau-Varilla Treaty—a strip of land 10 miles wide and 50 miles long for the construction, maintenance, operation, and protection of a canal between the Atlantic and Pacific.

The treaty also gave the United States—in perpetuity—the right to act within that strip of land as "if it were the sovereign."

It was quickly and widely acknowledged that the treaty favored the United States. When Secretary of State John Hay submitted the treaty to the Senate for ratification he said:

". . . We shall have a treaty very satisfactory, vastly advantageous to the United States and, we must confess, not so advantageous to Panama."

For many years Panama has considered the treaty to be heavily weighted in our favor. As a result, the level of Panama's consent to our presence has steadily declined. And by Panama, I mean not simply the government, but the Panamanian people.

The Panamanians point out:

First, that the existence of the Canal Zone impedes Panama's development. The Canal Zone cuts across the heartland of Panama's territory, dividing the nation in two. The existence of the zone curbs the natural growth of Panama's urban areas; it holds unused, large areas of land vital to Panama's development; it controls all the major deepwater port facilities serving Panama; and it prevents Panamanians from competing with American commercial enterprises in the zone. For the rights we enjoy on Panamanian territory, we pay Panama only $2.3 million a year.

Second, that the Canal Zone infringes on Panama's nationhood. Panama says the privileges exercised by the United States deprive their country of dignity and indeed, of full independence. Within the Canal Zone the United States operates a full-fledged government of Panama, which is its host. It maintains a police force, courts, and jails to enforce U.S. laws, not only upon Americans, but upon Panamanian citizens as well. And, the Panamanians point out, the treaty says the United States can do all these things forever.

Panamanian frustration over this situation has increased steadily over the years, as shown by the riots and demonstrations of January 1964.

In our negotiations, we are attempting to lay the foundations for a new—a more modern—relationship which will enlist Panamanian cooperation and better protect our interests.

Unless we succeed, I believe that Panama's consent to our presence will continue to decline—and at an ever more rapid rate. Some form of conflict in Panama would seem virtually certain, and it would be the kind of conflict which would be costly for all concerned.

We should understand that the canal's physical characteristics make it vulnerable. The canal is a narrow channel 50 miles long. It operates by the gravity flow of water and depends for its efficient operation on an integrated system of locks, dams, and other vital facilities. At best, it is susceptible to interruption, and interruptions would mean reduced service to world shipping and lower revenues.

But the most enduring costs of confrontation over the canal would not be commercial. Our Latin American neighbors see in our handling of the Panama negotiations a test of our political intentions in the hemisphere. Moreover, the importance of the canal, and our contribution to it, are recognized throughout the world. It is a measure of the respect in which we are held that people everywhere expect the United States to be able to work out an arrangement with Panama that will guarantee the continued operation of the canal in the service of the world community. We can, I suggest, create an example for the world of a small nation and a large one working peacefully and profitably together.

Were we to fail—particularly in light of the opportunity created by the negotiations so far—we would in a sense be betraying America's wider, long-term interests.

The plain fact of the matter is that geography, history, and the economic and political imperatives of our time compel the United States and Panama to a joint venture in the Panama Canal. A new arrangement based on partnership promises a greater assurance of safeguarding our interest in a canal that is open, safe, efficient, and neutral.

The real choice before us is not between the existing treaty and a new one but rather between a new treaty and what will happen if we should fail to achieve a new treaty.

These, then, are some of the political realities we face in Panama.

We must face political realities here at home as well. We know that a treaty must receive the advice and consent of two-thirds of the Senate of the United States. And we expect both houses of Congress will be asked to approve implementing legislation.

There is opposition in Congress to a new treaty; it reflects to a considerable degree the sentiments of many citizens. Our job is to make sure that the public and Congress have the facts they need if they are going to make wise decisions about the canal.

Unfortunately, the basis for our presence in the zone is widely misunderstood. Indeed, a number of myths have been built up over the years—about Panama's intentions and capabilities, about the need for perpetuity, and, most important, about ownership and sovereignty. We need to replace these myths with an accurate understanding of the facts.

First, there is the matter of Panama's intentions and capabilities—and the suggestion that a new treaty will somehow lead to the canal's closure and loss. The fact is that Panama's interest in keeping the canal open is far greater than ours. Panama derives more income from the canal than from any other single revenue-producing source.

Even so, some argue, canal operations would suffer because Panamanians lack the technical aptitude and the inclination to manage the operation of the canal enterprise. No one who has been to Panama and seen its increasingly diversified economy can persuasively argue that the Panamanians would not be able to keep the canal operating effectively and efficiently.

And Panama's participation in the canal can provide it with a greater incentive to help keep the canal open and operating efficiently.

In fact, the most likely avenue to the canal's closure and loss would be to maintain the status quo.

Second, there is the notion that the canal cannot be adequately secured unless the U.S. rights there are guaranteed in perpetuity—as stipulated in the 1903 treaty.

I can say this: To adhere to the concept of perpetuity in today's world is not only the exercise of rights in perpetuity has become a source of persistent tension in Panama. And clearly, an international relationship of this nature negotiated more than 70 years ago cannot be expected to last forever without adjustment.

Indeed, a relationship of this kind which unrealistic but dangerous. Our reliance on does not provide for the possibility of periodic mutual revision and adjustment is bound to jeopardize the very interest that perpetuity was designed to protect.

Third and finally, there are two misconceptions that are often discussed together: ownership and sovereignty. Some Americans assert that we own the canal; that we bought and paid for it, just like Alaska or Louisiana. If we give it away, they say, won't Alaska or Louisiana be next?

Others assert that we have sovereignty over the Canal Zone. They say that sovereignty is essential to our needs—that loss of U.S. sovereignty would impair our control of the canal and our ability to defend it.

I recognize that these thoughts have a basic appeal to a people justly proud of one of our country's great accomplishments. The construction of the canal was an American achievement where others had failed; every bit as great an achievement for its era as sending Americans to the moon is for ours.

But let us look at the truth about ownership and sovereignty. The United States does not own the Panama Canal Zone. Contrary to the belief of many Americans, the United States did not purchase the Canal Zone for $10 million in 1903. Rather, the money we gave Panama then was in return for the *rights* which Panama granted us by the treaty. We bought Louisiana; we bought Alaska. In Panama we bought not territory, but rights.

Sovereignty is perhaps the major issue raised by opponents of a new treaty. It is clear that under law we do not have sovereignty in Panama. The treaty of 1903 did not confer sovereignty, but speaks of rights the United States would exercise as "if it were the sovereign."

From as early as 1905, U.S. officials have acknowledged repeatedly that Panama retains at least titular sovereignty over the zone. The 1936 treaty with Panama actually refers to the zone as "territory of the Republic of Panama under the jurisdiction of the United States." Thus, our presence in the zone is based on treaty rights, not on sovereignty.

It is time to stop debating these historical and legal questions. It is time to look to the future, and to find the best means for assuring that our country's *real* interests in the canal will be protected.

What are our real interests?

We want a canal that is open to all the world's shipping—a canal that remains neutral and unaffected by international disputes;

We want a canal that operates efficiently, profitably, and at rates fair to the world's shippers;

We want a canal that is as secure as possible from sabotage or military threat; and

We want fair treatment for our citizens in the Canal Zone.

The negotiations we are now conducting with Panama for a new treaty will insure that all these interests of our country are protected.

In early 1974 Secretary of State Kissinger went to Panama to initiate with the Panamanian foreign minister a set of eight "principles." The best characterization of these principles came from the Chief of Government of Panama. He said they constitute a "philosophy of understanding." Their essence is that:

Panama will grant the United States the rights, facilities, and lands necessary to continue operating and defending the canal; while

The United States will return to Panama jurisdiction over its territory; and arrange for the participation by Panama, over time, in the canal's operation and defense.

It has also been agreed in the principles that:

The next treaty shall not be in perpetuity but rather for a fixed period;

The parties will provide for any expansion of canal capacity in Panama that may eventually be needed; and

Panama will get a more equitable share of the benefits resulting from the use of its geographic location.

Since then, major issues have been identified under each of the principles, and we have reached agreement in principle with the Panamanians on three issues:

Jurisdiction. Jurisdiction over the zone area will pass to Panama in a transitional fashion. The United States will retain the right to use those areas necessary for the operation, maintenance, and defense of the canal.

Canal Operation. During the treaty's lifetime the United States will have the primary responsibility for the operation of the canal. There will be a growing participation of Panamanian nationals at all levels in day-to-day operations in preparation for Panama's assumptions of responsibility for canal operation at the treaty's termination.

The Panamanian negotiators understand that there are a great many positions for which training will be required over a long period of time and that the only sensible course is for Panamanian participation to begin in a modest way and grow gradually.

Canal Defense. Panama recognizes the importance of the canal for our security. As a result, the United States will have primary responsibility for the defense of the canal during the life of the treaty. Panama will grant the United States "use rights" for defending the waterway; and Panama will participate in canal defense in accordance with its capabilities.

Several other issues remain to be resolved. They concern:

The amount of economic benefits to Panama;

The right of the United States to expand the canal should we wish to do so;

The size and location of the land and water areas we will need for canal operation and defense;

A mutually acceptable formula for the canal's neutrality and nondiscriminatory operation of the canal after the treaty's termination; and

Finally, the duration of the new treaty.

Quite obviously, we still have much to do to resolve these issues. Although we have no fixed timetables, we are proceeding with all deliberate speed. We are doing so with the full support of the Department of Defense. Indeed, our most senior military officials regard the partnership we are attempting to form as the most practical means of preserving what is militarily important to our country respecting the Panama Canal.

America has always looked to the future. In the Panama Canal negotiations we have the opportunity to do so again:

To revitalize an outmoded relationship;

To solve an international problem before it becomes a crisis; and

To demonstrate the qualities of justice, reason, and vision that have made and kept our country great.

HUMPHREY ADDRESSES MINNESOTA GRAIN TERMINAL ASSOCIATION ON AGRICULTURAL POLICY

Mr. HUMPHREY. Mr. President, on December 3 I had the privilege of speaking before the Grain Terminal Association of the Minnesota Farmers Union at its annual meeting.

At that time, I outlined some of the problems and complexities facing our agricultural producers today. And I indicated the very significant role that our agricultural exports play in meeting our petroleum import requirements.

I also outlined some of the shortcomings of today's agricultural programs and the continuing uncertainty which these policies encourage.

I also pointed out the present administration attitudes which prevail regarding the role of the cooperatives. In my view, the cooperatives play an important role in the production and marketing of our farm commodities. But at present there is almost a vendetta against these cooperatives in the name of "stimulating competition."

Clearly we need to develop new legislation which provides improved fuller protection for our producers and reliable food supplies for consumers. At the same time we need a reserve mechanism to acquire any extra production during a particularly good production year.

In addition, our agricultural policy needs to take into account the transportation and input requirements for agriculture, which generally have not been adequately considered in developing positions regarding food and agricultural policy.

Mr. President, in order to stimulate discussion regarding this important sub-

ject, I ask unanimous consent that my remarks be printed at this point in the RECORD.

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

REMARKS OF SENATOR HUBERT H. HUMPHREY

Despite record U.S. harvests this year, the world food supply situation is little better than a year ago.

Our farmers still feel neglected and unappreciated by the government. And many urban consumers do not understand agriculture and its modern complexities.

We have an Administration which is trying to forget lessons learned in maintaining the stability and productive capacity of this vital industry.

It's not a case of trying to teach an old dog new tricks. It's a case of trying to remind a confused Administration of some basic facts.

The Nation's Governors in February, 1975, resolved:

"We must develop a workable national food policy that takes into account at least minimum protection for our farmers and their resources upon whom we are calling for unlimited production."

That need exists more than ever today. The production of wheat this year was up 19.2 percent, corn 22.5 percent and soybeans 19.5 percent.

The index of all agricultural production for this year is 122 in comparison with the previous record of 120 in 1973.

Our agricultural exports are expected to approach $23 billion this year, with net agricultural sales over imports of $12.7 billion. And yet, net income for farmers is likely to drop from over $27 billion last year to around $25 billion this year.

Minnesota farm income for this year is lower than in 1974, when net farm income dropped by $543.3 million. How many sectors of our economy would be willing to accept a twenty-four percent reduction in net income?

Farm prices have continued to bounce up and down, depending on the weather and rumors of export sales. Meanwhile, production costs keep rising ever upward.

The Administration responds that its policy is one of full production and the free market.

I support that as a goal, but it is not adequate or realistic as a policy. Without a balanced food and agricultural policy, our farmers will continue each year to look down the barrel at potential financial disaster.

On the other hand, we confront a frightening world food need, with over 2 million new mouths to feed each month.

To cripple food production with economic pressures that drive people from farms is unacceptable as we watch the progression of world starvation. We cannot and will not ignore this serious obligation.

The record of this nation in helping to feed the world is one of which we can all be proud. In addition to our ever increasing commercial exports, we have provided over $27 billion in food assistance since 1954.

This record achievement did not just happen. We provided agriculture with the stability needed to encourage the farmer to invest in new technology, and to plan for five, ten or more years into the future.

It is a record that was made possible by developing programs to assure the availability of credit.

It also was based on agricultural research efforts, market promotion and development, adequate transportation and inputs.

And it was encouraged by the tremendous growth in the ability of the farmer to market his own product. Those of you gathered here know this story better than most, because you helped write that history.

However, let us not kid ourselves. The programs we fashioned over the years have not been perfect. We did not provide adequate rewards for our farmers.

But let's look at the record of what we have accomplished.

The American farmer—from the Minnesota dairyman to the Louisiana rice producer—stands before his nation and the entire world with a record of productivity that is unmatched anywhere.

In the years right after World War II, America was looked to as the breadbasket of the world. And today, more than ever, we are the world's main food surplus nation.

The people of America today enjoy a diet unparalleled in the world for quality, variety and—most important—abundance. For most of us, food costs amount to only about 17 percent of take-home income.

The average American has been able to improve his diet through a generally rising standard of living, by programs of consumer information, and by improved food quality, quantity and safety.

The child nutrition programs have been greatly expanded and extended to reach additional millions with better school lunches, school breakfasts, and additional milk. A special effort has been made to place these food programs within the reach of all children, regardless of family circumstances.

We also have launched a special supplemental feeding program for the nutritionally vulnerable. The Woman, Infants and Children (W.I.C.) program is designed to make certain that the most needy infants have the opportunity for normal mental development.

The Food Stamp Program has made an adequate diet a reality for millions of people. And it also serves as a buffer during periods of severe unemployment.

All of these efforts to improve agriculture and our national nutrition levels came only because groups such as G.T.A. made their contribution. Someone recognized a need and saw the responsibility of having the government act in the public interest.

But in spite of our progress, we face major uncertanties in agriculture today.

We hear a lot of talk about the advantages of the free market. And we are told of the wisdom of removing the shackles of government intervention and interference from the farmer. But these speeches do not represent the dawning of a new era in agricultural economics.

They represent an attempt to turn back the clock.

One of the main shortcomings of our present agricultural programs is lack of adequate support prices for our producers.

Last spring Congress passed a one-year farm bill. It was not an ideal piece of legislation. We were forced to temper what we felt was needed against what might be acceptable to the White House. But even this modest bill brought forth a Presidential veto, although grain prices then were well above the target prices in the bill.

Recently the market prices have been hovering near the levels in that bill.

In vetoing the bill, President Ford said it would cost too much money. He acknowledged that farm costs were 11 percent higher than in 1974, and prices were down seven percent.

And unfortunately the Department of Agriculture resorted to furnishing highly misleading and distored information on the cost of the bill in order to defeat it.

The President praised the American farmer for responding to his call for all-out production. And he pledged his personal support to maintain the farmer's access to world markets.

Since then, our farmers have learned the value of that promise. As the Soviet crop estimates plummeted—from 215 to 160 million metric tons—the demand for our grain escalated.

But the Administration—in spite of its free market proclamations—again, as in 1973 and 1974, established export controls.

I hope that the recent agreement with the Soviet Union helps to stabilize the demand for our agricultural products. It is highly disruptive when one year that country buys 15 million tons and the next year purchases almost nothing.

I have urged that the Soviets buy on a regular basis. This would enable cooperatives such as GTA to participate in the business, and it would reduce the disruption in our market.

But it is not just on the farm or in our export markets that we face uncertainty today. In the marketing of agricultural commodities, farmers have made tremendous investments in the development of cooperative associations to market their products.

When the cooperative movement began, it was often subject to attack as a violation of antitrust laws. In 1922, Congress, through the Capper-Volstead Act, said that farmers needed cooperatives to permit them to compete in the market.

Over the years, Congress has encouraged farmer cooperatives on the basis that they improve the marketing ability of farmers and serve to stimulate competition with private corporations.

But today, the cooperatives are under attack once again, being charged with "unduly enhancing" food prices. It is clear that the Administration would like to restrict cooperatives in the name of stimulating competition.

I understand that Secretary Butz, who should know better, recently stated that G.T.A. has "gobbled up all the private elevators along the Milwaukee and Northwestern railroads."

To make matters worse, these remarks were made in an urban setting, at the Harvard Business School, where the comments were likely to go unchallenged.

I am reminded of Adlai Stevenson's comment that "if the Republicans will stop telling lies about us, we will stop telling the truth about them."

But let us not be deceived. The talk about limiting cooperatives really is a discussion of how we can limit the farmer in the market place.

It is interesting to note that only 28 percent of all farm output is marketed through cooperatives. In 1973, the combined sales of all cooperatives totaled $19 billion, while General Motors had sales of over $28 billion.

The cooperative is a force for stability and a means to enable the producer to get a better deal. It also helps assure reliable food supplies for consumers. But today, we hear veiled threats which create concern and confusion.

The cooperatives must not stand divided. An attack on one is an attack on all.

This is just one more area where the Administration has been guided by theory rather than fact.

We need not only a new coach and a new team, but an entirely different game plan.

Increasingly, we also have become aware of the critical importance of a good transportation system in moving the output of the farm to the ultimate used. What we need is a transportation policy including not just roads but also our railroads and waterways.

Our focus in recent years has been mainly on railroads. Since 1960, track abandonments have averaged about 1,000 miles annually. Yet the railroads insist that they are losing $130 million a year on branch lines alone.

Around Redwood Falls, according to your GTA Digest, trains don't run on that line until the quack grass is strong enough in spring to hold the ties together.

We also face a major issue in trying to reach a decision on rebuilding Lock and Dam 26 at Alton, Illinois, on the Mississippi. If these structures give way, we will place a heavy strain on our rail and road facilities. And our farmers will pay a heavy price because we have been unable to reach a decision on how to proceed.

This issue brings together the concerns of the environmentalists, and those who feel that these facilities must be rebuilt.

We need to find a way to give these concerns a full hearing, but also be able to reach a conclusion promptly.

What is needed today is the development of a balanced food and agricultural policy which takes into account the needs and interests of farmers and consumers alike. This policy must relate our domestic, export and humanitarian concerns.

We will need to avoid dealing with problems on an ad hoc basis—groping from crisis to crisis, unsure of where we are headed but still proclaiming the gospel of the full market.

This will mean being realistic rather than being guided by polls, developing slogans, or coming up with new "WIN" buttons.

We should develop a policy aimed at the following specific objectives:

Price and income protection for producers of food and fiber;

Food supply stability for consumers at reasonable prices;

Adequate supplies of inputs and transportation for producers at reasonable prices;

Assuring the production of adequate supplies of dairy and livestock products for domestic and international needs; and

The establishment of a reserve program to provide market stability during periods of shortage and surplus, maintain the reliability of the U.S. as an exporter, and continue the provision of food assistance to needy nations.

All of this can be done without depressing farm prices.

We have seen some of the problems of recent years from rising food prices, embargoes, rising farm indebtedness and foreclosures, and volatile export markets, to the cost price squeeze on farmers, particularly livestock and dairy producers.

We must get away from the uncertainty each year as to whether this will be a bad year for our livestock or grain producers.

The task before us requires leadership, getting on with the job ahead. Unfortunately, that commodity seems to be in short supply these days.

I pledge to continue my best efforts in this direction, and I urge you to do likewise.

U.S. INTERVENTION IN ANGOLA

Mr. BAYH. Mr. President, despite the tragic and bitter lessons we should have learned from our intervention in civil war in Southeast Asia, the Ford administration persists in deepening our involvement in the civil strife in Angola. This past week it was revealed that American aid has grown to the sum of $50 million, and allegations that five American "spotter" planes, piloted by Americans, are being flown over Angola have not been denied. From statements made by the Secretary of State, it would appear that official intentions are to escalate rather than curtail American intervention in the weeks and months to come.

The war in Angola presents the first test of American foreign policy after Vietnam. Unfortunately, our performance to date indicates that we have not learned from our mistakes. Rather than recognizing our limitations and carefully analyzing our interests, we are again plunging into a conflict in a far corner of the world as if we believed it was still our mission to serve as policeman of the world. The administration continues to base American foreign policy on an outmoded theory of balance of power among the superpowers and to view every internal conflict as a threat to that balance. What is worse, the course of action we are choosing offers no real benefits even if it succeeds.

Though the administration has portrayed the conflict in Angola as a product of the struggle between Soviet and Western ideologies, nothing could be further from the truth. The divisions within Angola are based on ethnic history and centuries of social stratification and colonial rule. They carry tribal and social overtones, and there is no evidence that any one faction can claim the broad based popular support to establish a legitimate claim to govern Angola. Indeed, from information now available it would appear that the FNLA, the movement supported by the United States, has the narrowest ethnic base of all the factions. Even if it should prevail in the near term, it is unlikely that it could control the long term course of events.

Further, in entering the Angolan conflict, we are allying ourselves with South Africa, the embodiment of racial repression.

Already 13 African nations, most recently Nigeria, have recognized the Soviet-backed Popular Movement, largely because they see a far greater danger in an Angola allied with South Africa than one friendly to the Soviet Union. It would be a Pyrrhic victory, indeed, if the United States were to successfully back a pro-American Angolan regime, and at the same time gain the enmity of a major portion of black Africa.

The United States should not condone or countenance the blatant intervention in Angola of the Soviet Union and Cuba. Once again the Soviets are demonstrating the limitations of détente and their adventuristic behavior should be condemned in every available forum. It must be made perfectly clear to the U.S.S.R. and Cuba that they cannot expect to reap the benefits of more normal relations with the United States if they persist in such irresponsible conduct. We should make every effort to encourage the Organization of African Unity to curtail outside intervention and find peaceful solution to the Angolan problem.

Let us not, however, compound the tragedy and imitate Soviet policy. We should not expand and prolong the suffering of peoples on the other side of the world when American security is not at stake and when our actions have little chance for success and will jeopardize our relations with black Africa.

Congress should insist that the administration come forward and explain the extent of our involvement and exactly why it believes such involvement is necessary. We must demand much more than vague statements that transportation routes for oil would be endangered by a pro-Soviet Angolan Government. No more funds should be expended for Angola until the issues are thoroughly debated and such expenditures are properly authorized by congressional action. There is still time to restore sanity and vision to American foreign policy if we act decisively in responding to the test which Angola has presented.

HUD FINANCES FLOOD PROJECTS

Mr. EAGLETON. Mr. President, tomorrow the Senate will consider my amendment to correct some of the worst inequities and excesses of the flood insurance program.

Over the many months I have been dealing with this program, I have been distressed by the calloused attitude of HUD administrators that people who have homes and businesses in areas subsequently designated to be a 100-year flood plain have only themselves to blame.

Forgetting for the moment that this country was settled on rivers, lakes, and ocean plains and that many of the individuals being victimized by this program built their homes decades before anyone thought of a Federal flood insurance program, I want to bring to the attention of Senators certain other mitigating circumstances that should weigh in their consideration of this issue.

First. Many of those who now find themselves in flood-disaster areas never had a problem until a Federal project—that is Corps of Engineers—was built upstream usually to give flood protection to an urban area. This has resulted in an aggravated flood problem downstream.

Second. Not until 1974 did the Federal Government act to require sellers of flood plain property to notify buyers of the hazard and consequences of buying in terms of loss of Federal construction and disaster aid.

Third. Perhaps most disturbing, a large number of these flood-plain structures were built or acquired with Federal assistance and the Federal agency had or should have had full knowledge of the hazard involved. Here is what GAO found in a limited survey of this situation in May, 1975—GAO Report No. RED-75-327:

HUD. "In January 1970 HUD approved a multi-family complex—subsequently constructed—in Texas for mortgage insurance of $1.2 million. Although a Corps flood plain information report showed that part of the development was in the 100-year flood plain, HUD did not adequately evaluate this information. Based on information in the Corps' report . . . 3 of the 10 apartment buildings would have their floors covered by up to 2 feet of water in a 100-year flood."

HUD. "In another case, HUD gave preliminary approval in June 1972 for mortgage insurance totaling $690,000 on a 60-unit multi-family project in Texas. The HUD appraiser certified that the project was not subject to flooding. We discussed this project with HUD officials, and they requested the Corps to provide technical information on the flood hazard. The information showed that a 100-year flood would cover the first floor of the units with up to 4 feet of water."

HUD. "GAO reviewed the files for 1 existing house and for disposal actions on 13 houses and found no evidence of flood hazard evaluation. HUD field officials said they did not evaluate the flood hazard on the disposal cases because they were unaware of any

requirement to do so. One official stated that he would not tell a property buyer of a flood hazard because it would make the property more difficult to sell."

HUD. "In April 1972 HUD sold a single-family dwelling in North Carolina to a private citizen. An available Corps flood plain information report indicate that the house was in the 100-year flood plain. HUD did not evaluate the flood hazard. In another case, HUD in March 1973 sold and reinsured a mortgage for $10,000 on a single-family dwelling located in Missouri. HUD did not evaluate the flood hazard although a Corps flood plain information report issued in 1970 showed that the dwelling was in the 100-year plain."

VA. "A VA field office in October 1972 guaranteed a mortgage for $7,080 on an existing house in Missouri. VA did not evaluate the flood hazard for this property. In the spring of 1973, a flood of less than a 100-year level inundated the house to within 9 inches of the rooftop."

VA. "GAO reviewed nine disposal actions in the 100-year flood plain and found that flood hazards had not been evaluated. For example, in March 1970 a VA field office sold a house in Nebraska for $17,750 and provided a $16,900 mortgage. Although VA files noted that the house had been damaged by a flood in 1964, VA sold it without restricting its use to minimize future flood damages—such as requiring floodproofing or prohibiting residential use."

FmHA. "GAO selected one subdivision, six new houses, and three existing houses, located in the 100-year flood plain. Three existing houses and one new house were financed before . . . February 1973. FmHA had not adequately evaluated flood hazards for any of them. For example, in May 1973 FmHA approved five new houses in North Carolina for mortgage insurance averaging $17,000 each. Even though available information indicated that these houses would be in a 100-year flood plain, FmHA did not evaluate the hazard."

GSA. "GAO reviewed eight disposals in the 100-year flood plain. GSA did not adequately evaluate the flood hazards for five disposals. For example, in 1974 GSA sold property in Virginia containing 21 structures for $253,000. A flood plain information report issued in 1965 by the Corps showed that the property was in the 100-year flood plain. In addition, the property had been flooded twice in recent years and was flooded while GSA was in the process of disposing of the property. Yet, GSA sold the property without any use restriction except that the buyer must comply with area zoning."

SOLZHENITSYN ISSUES STRONG WARNING ON WISDOM OF DÉTENTE

Mr. ALLEN. Mr. President, in our willingness to "go the extra mile" with nations throughout the world in order to maintain peace and stability, we must take care never to let our desire to accomplish these goals overrule our best judgment.

It is well and good to extend the hand of friendship and assistance to other nations. But we must not be deceived and distracted by détente, or other so-called mutual agreement policies, which offer absolute solutions to all our foreign relations problems.

While it is important to continue our efforts to improve the relationship between our great country and the Soviet Union, it would be foolhardy for us to believe that they approach our Nation in the same spirit.

Aleksandr Solzhenitsyn, exiled Russian citizen and Nobel Prize-winning author, in two speeches in Washington and New York earlier this year, warned us of the dangers involved in the policy of détente. He offered us a look at this "new understanding" between our countries from the Russian's point of view. This view was enlightening. Solzhenitsyn said:

Do we have to wait until the knife is at our throats? Isn't it possible to assess the menace that threatens to swallow the whole world? I was swallowed myself. I have been in the red burning belly of the dragon. He wasn't able to digest me. He threw me up. I come to you as a witness to what it's like there.

Mr. President, by presenting another view of what détente may hold for us, I believe Mr. Solzhenitsyn's penetrating remarks should be given serious consideration by those who wish to look realistically at the policy of détente.

Mr. President, I ask unanimous consent that the address by Mr. Solzhenitsyn be printed in the RECORD.

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

WAKE UP! WAKE UP!

(By Aleksandr Solzhenitsyn)

Is it possible to transmit the experience of those who have suffered to those who have yet to suffer? Can one part of humanity learn from the bitter experience of another? Is it possible to warn someone of danger?

How many witnesses have been sent to the West in the last 60 years? How many millions of persons? You know who they are: if not by their spiritual disorientation, their grief, then by their accents, by their external appearance. Waves of immigrants, coming from different countries, have warned you of what is happening. But your proud skyscrapers point to the sky and say: It will never happen here. It's not possible here.

It can happen. It is possible. As a Russian proverb says: "When it happens to you, you'll know it's true."

Do we have to wait until the knife is at our throats? Isn't it possible to assess the menace that threatens to swallow the whole world? I was swallowed myself. I have been in the red burning belly of the dragon. He wasn't able to digest me. He threw me up. I come to you as a witness to what it's like there.

Communism has been writing about itself in the most open way for 125 years. It is perfectly amazing. The whole world can read but somehow no one wants to understand what communism is. Communism is as crude an attempt to explain society and the individual as if a surgeon were to perform his delicate operations with a meat-ax. All that is subtle in human psychology and the structure of society (which is even more delicate) is reduced to crude economic processes. This whole created being—man—is reduced to matter.

Communism has never concealed the fact that it rejects all absolute concept of morality. It scoffs at "good" and "evil" as indisputable categories. Communism considers morality to be relative. Depending upon circumstances, any act, including the killing of thousands, could be good or bad. It all depends upon class ideology, defined by a handful of people. In this respect, communism has been most successful. Many people are carried away by this idea today. It is considered rather awkward to use seriously such words as "good" and "evil." But if we are to be deprived of these concepts, what will be left? We will decline to the status of animals.

FREEDOM'S TAX

But what is amazing is that, apart from all the books, communism has offered a multitude of examples for modern man to see. The tanks have rumbled through Budapest and into Czechoslovakia. Communists have erected the Berlin Wall. For 14 years people have been machine-gunned there. Has the wall convinced anyone? No. We'll never have a wall like that. And the tanks in Budapest and Prague, they won't come here either. In the communist countries they have a system of forced treatment in insane asylums. Three times a day the doctors make rounds and inject substances into people's arms that destroy their brains. Pay no attention to it. We'll continue to live in peace and quiet here.

What's worse in the communist system is its unity, its cohesion. All the seeming differences among the communist parties of the world are imaginary. All are united on one point: *your social order must be destroyed.*

All of the communist parties, upon achieving power, have become completely merciless. But at the stage before they achieve power, they adopt disguises. Sometimes we hear words such as "popular front" or "dialogue with Christianity." *Communists* have a dialogue with Christianity? In the Soviet Union this dialogue was a simple matter: they used machine guns. And last August, in Portugal, unarmed Catholics were fired upon by the communists. This is dialogue? And when the French and the Italian communists say that they are going to have a dialogue, let them only achieve power and we shall see what this dialogue will look like.

As long as in the Soviet Union, in China and in other communist countries there is no limit to the use of violence, how can you consider yourselves secure or at peace? I understand that you love freedom, but in our crowded world you have to pay a tax for freedom. You cannot love freedom just for yourselves and quietly agree to a situation where the majority of humanity is being subjected to violence and oppression.

The communist ideology is to destroy your society. This has been their aim for 125 years and has never changed; only the methods have changed. When there is détente, peaceful coexistence and trade, they will still insist: The ideological war must continue! And what is ideological war? It is a focus of hatred, a continued repetition of the oath to destroy the Western world.

I understand, it's only human that persons living in prosperity have difficulty understanding the necessity of taking steps—here and now—to defend themselves. When your statesmen sign a treaty with the Soviet Union or China, you want to believe that it will be carried out. But the Poles who signed a treaty in Riga in 1921 with the communists also wanted to believe that the treaty would be carried out; they were stabbed in the back. Estonia, Latvia and Lithuania signed treaties of friendship with the Soviet Union and wanted to believe that they would be carried out; these countries were swallowed.

And those who sign treaties with you now, at the same time give orders for sane and innocent people to be confined in mental hospitals and prisons. Why should they be different? Do they have any love for you? Why should they act honorably toward you while they crush their own people? The advocates of détente have never explained this.

You want to believe, and you cut down on your armies. You cut down on your research. You eliminated the Institute for the Study of the Soviet Union—the last genuine institute which actually could study Soviet society—because there wasn't enough money to support it. But the Soviet Union is studying you. They follow what's going on in your

institutions. They visit Congressional committees; they study everything.

Nuclear Checkmate. The principal argument of the advocates of détente is necessary to avoid nuclear war. But I think I can set your minds at ease: there will not be any nuclear war. Why should there be a nuclear war if for the last 30 years the communists have been breaking off as much of the West as they wanted, piece after piece? In 1975 alone, three countries in Indochina were broken off.

You have theoreticians who say: "The United States has enough nuclear weapons to destroy the other half of the world. Why should we need more?" Let the American nuclear specialists reason this way if they want, but the leaders of the Soviet Union think differently. In the SALT talks, your opponent is continually deceiving you. Either he is testing radar in a way which is forbidden by the agreement; or he is violating the limitations on the dimensions of missiles; or he is violating the conditions on multiple warheads.

Once there was no comparison between the strength of the U.S.S.R. and yours. Now theirs is becoming superior to yours. Soon the ratio will be 2 to 1. Then 5 to 1. With such a nuclear superiority it will be possible to block the use of your weapons, and on some unlucky morning they will declare: "Attention. We're marching our troops to Europe and, if you make a move, we will annihilate you." And this ratio of 2 to 1 or 5 to 1 will have its effect. You will not make a move.

A WORLD OF CRISIS

In addition to the grave political situation in the world today, we are approaching a major turning point in history. I can compare it only with the turning point from the Middle Ages to the modern era, a shift of civilizations. It is the sort of turning point at which the hierarchy of values to which we have been dedicated all our lives is starting to waver, and may collapse.

These two crises—the political and spiritual—are occurring simultaneously. It is our generation that will have to confront them. The leadership of your country will have to bear a burden greater than ever before. Your leaders will need profound intuition, spiritual foresight, high qualities of mind and soul. May God grant that you will have at the helm personalities as great as those who created your country.

Those men never lost sight of their moral bearings. They did not laugh at the absolute nature of the concepts of "good" and "evil." Their policies were checked against a moral compass. They never said, "Let slavery reign next door, and we will enter into détente with this slavery so long as it doesn't come over to us."

I have traveled enough through your country to have become convinced that the American heartland is healthy, strong, and broad in its outlook. And when one sees your free and independent life, all the dangers which I talk about indeed seem imaginary; in your wide-open spaces, even I get infected. But this carefree life cannot continue in your country or in ours. A concentration of world evil, of hatred for humanity is taking place, and it is fully determined to destroy your society. Must you wait until it comes with a crowbar to break through your borders?

NO MORE SHOVELS

We in the Soviet Union are born slaves. You were born free. Why then do you help our slaveowners? When they bury us in the ground alive, please do not send them shovels. Please do not send them the most modern earth-moving equipment.

The existence of our slaveowners from beginning to end depends upon Western economic assistance. What they need from you is absolutely indispensable. The Soviet economy has an extremely low level of efficiency. What is done here by a few people, by a few machines, in our country takes tremendous crowds of workers and enormous masses of materials. Therefore, the Soviet economy cannot deal with every problem at once: war, space, heavy industry, light industry, and at the same time feed and clothe its people. The forces of the entire Soviet economy are concentrated on war, where you won't be helping them. But everything that is necessary to feed the people, or for other types of industry, they get from you. You are helping the Soviet police state.

Our country is taking your assistance, but in the schools they teach and in the newspapers they write, "Look at the Western world, it's beginning to rot. Capitalism is breathing its last. It's already dead. And our socialist economy has demonstrated once and for all the triumph of communism." I think that we should at last permit this socialist economy to prove its superiority. Let's allow it to show that it is advanced, that it is omnipotent, that it has overtaken you. Let us not interfere with it. Let us stop selling to it and giving it loans. Let it stand on its own feet for 10 or 15 years. Then we will see what it looks like.

I can tell you what it will look like. It will have to reduce its military preparations. It will have to abandon the useless space effort, and it will have to food and clothe its own people. And the system will be forced to relax.

The Cold War—the war of hatred—is still going on, but only on the communist side. What is the Cold War? It's a war of abuse. They trade with you, they sign agreements and treaties, but they still abuse you, they still curse you. In the depths of the Soviet Union, the Cold War has never stopped for one second. They never call you anything but "American imperialists." Do I call upon you to return to the Cold War? By no means, Lord forbid! What for? The only thing I'm asking you to do is to stop helping the Soviet economy.

In ancient times, trade began with the meeting of two persons who would show each other that they were unarmed. As a sign of this each extended an open hand. This was the beginning of the handclasp. Today's word "détente" means a relaxation of tension. But I would say that what we need is rather this image of the open hand.

Relations between the Soviet Union and the United States should be such that there would be no deceit in the question of armaments, that there would be no concentration camps, no psychiatric wards for healthy people. Relations should be such that there would be an end to the incessant ideological warfare waged against you and that an address such as mine today would in no way be an exception. People would be able to come to you from the Soviet Union and from other communist countries and tell you the truth about what is going on. This would be, I say, a period in which we would truly be able to present "open hands" to each other.

MINE HEALTH AND SAFETY STANDARDS

Mr. BAYH. Mr. President, I regret the inclusion in the Interior Appropriations Conference Report of language designed to prevent the transfer of the Mining Enforcement and Safety Administration from the Interior Department to the Labor Department.

In March of this year I cosponsored legislation, S. 1302, along with 39 other Senators, which would mandate the transfer of MESA from the Interior Department to the Labor Department. The Senate Labor and Public Welfare Committee, under the able leadership of my colleague from New Jersey (Mr. WILLIAMS), is planning to hold hearings in the near future on this very issue. These hearings, and, indeed, the legislation itself, have been necessitated by the failure of the Interior Department to enforce adequately existing mine health and safety standards.

The failure to enforce mine safety standards is fairly self-evident when one looks at the death rates for miners during 1973 and 1974. During 1974 132 coal miners were killed carrying out their jobs—only 2 fewer deaths than in 1973. Surely, Mr. President, by increasing the number of safety inspectors by 10,000 between 1973 and 1974, we should have expected far better results in reducing fatalities.

The failure of the Interior Department to make significant progress in reducing the number of mine accidents and fatalities reflects a larger problem. The primary purpose of MESA is to enforce standards providing maximum safety to coal miners. One of the prime goals of the Interior Department is to increase the amount of coal available in meeting our energy needs. The fact is we can increase coal production and better protect the safety of coal miners, but the Interior Department has refused to give these two important goals the balanced attention they need.

This is why I favor transferring MESA to the Labor Department. To those who oppose the transfer, I can only say that the record on mine safety speaks for itself. For those who say that mine accident injuries, or even fatalities are a normal part of the mining business, and a price we must pay for increased coal production, I reject the notion that we must sacrifice human life in order to meet our energy needs.

I sincerely hope that the full Senate will have the opportunity to express itself on this matter in the very near future. Enactment of S. 1302 will mean greater safety in our mines, it will encourage more workers to go into the mines, and it will ultimately increase coal production under safer conditions.

SOLAR ENERGY TAX CREDIT

Mr. MCINTYRE. Mr. President, on December 10, 1975, I introduced the Solar Energy Equipment Tax Credit Amendment of 1975 to H.R. 7727. This amendment would provide for a tax credit for the installation of solar home heating, cooling and water heating equipment. Several Senators have joined with me in cosponsoring this amendment including Senators BROOKE, DOMENICI, PELL, MONTOYA, HATHAWAY and ABOUREZK.

The importance of incentives for solar collection equipment has been stressed in hearings before the Senate Small Business Committee. At hearings I chaired, several witnesses noted that a tax credit or other tax incentive would help to build a solar heating equipment industry.

On page 16 of the interim report of the committee on the "Role of Small Business in Solar Energy Research, Development and Demonstration," which I filed on October 7, 1975, the committee noted that—

Congress should enact tax incentives for the deveolpment of solar energy for heating and cooling residences and other buildings wherever possible.

I ask unanimous consent to have printed the language of that report in the RECORD at the end of my statement to stress the importance of solar energy development.

The PRESIDING OFFICER. Without objection, it is so ordered. [See exhibit 1.]

Mr. McINTYRE. Mr. President, incentives are important. They would provide an assist to America's homeowners to install solar heating equipment. But at the same time they would work to increase the development of American business.

A credit for the installation of solar equipment would mean more orders for American businessmen. Large companies that manufacture glass, copper, aluminum, and other materials used in collection equipment would benefit. Small companies that install and put together bits and pieces of collectors would benefit. Engineering and architectural design firms would benefit. Research establishments, both public and private, would benefit. There is no end to the flow-through that this tax credit would mean for American industry.

Let us look at the flow-through that occurred when the SBA's technology utilization program was in full swing about three years ago. The SBA spent about $250,000 every year passing through the benefits of technology from Government-contracted research. The return in revenue to the Government from that quarter-million dollar investment was between $2 and $4 for every $8.30 the SBA spent. In the case of this solar energy tax credit, the investment of $2,000 per home in revenue loss in solar development could mean the establishment of an entirely new industrial sector. That industrial sector would be paying corporate taxes and adding to the revenues of the government. After 1981 when the tax credit expires, the industry we will have built up could be producing low-cost collectors, providing energy saving equipment to America's consumers. And, through its taxes, making up for the revenue loss that the Joint Committee on Internal Revenue Finance has already told me is not going to be excessive.

EXHIBIT 1

THE ROLE OF SMALL BUSINESS IN SOLAR ENERGY RESEARCH, DEVELOPMENT, AND DEMONSTRATION

I. INTRODUCTION

During the spring of 1975, the Senate Select Committee on Small Business initiated a study of energy research and development and small business.

In the first phase of its investigation, the committee conducted two days of hearings on May 13 and 14, 1975, on the problems small businesses are encountering in the emerging solar energy industry.[1] Various sessions of those hearings were chaired by Committee Chairman Gaylord Nelson of Wisconsin, Senator Thomas J. McIntyre of New Hampshire, and Senator William D. Hathaway of Maine.

Prior to the hearings, Senator McIntyre circulated a voluntary questionnaire to solar energy concerns, seeking to determine the near-term manufacturing capacity of the industry.[2] Senator Nelson directed the committee staff to prepare background material on the national solar energy potential and plans, and to interview dozens of representatives from small business firms actively engaged in the solar energy industry.

The hearings and investigation centered on the particular problems that small business research companies have met in dealing with the Federal Government, that small business development companies have faced with Government regulations and competing companies, and that small businesses might meet should the national drive for energy self-sufficiency, known as Project Independence, mean accelerated uses of the sun for power.

Further, the committee questioned why for years solar energy had been virtually ignored as an alternative energy resource—even in the face of promising Government reports dating back to the early 1950's. In 1952, the Paley Commission, in its final report to President Truman, stated: "Efforts made to date to harness solar energy economically are infinitesimal. It is time for aggressive research in the whole field of solar energy—an effort in which the United States could make an immense contribution to the welfare of the free world."[3]

The amount of energy from the sun reaching the United States annually, according to the Paley Commission, was 1,500 times the nation's energy consumption in 1950.[4] And although U.S. energy consumption has increased dramatically since 1950, estimates compiled by the Energy Research and Development Administration (ERDA) show that total U.S. insolation is still over 600 times our current use of energy in all forms.[5]

Tragically, the Paley Commission's recommendations "for aggressive research" went unheeded. As a result, the Commission's optimistic prediction for solar energy's contribution to the national energy budget was unrealized. That prediction was that, by 1975, solar energy could account for 10 percent of the nation's total energy consumption.[5]

A. A National resource in solar energy

Within the near future, solar power could and certainly should contribute significantly to the national energy budget. Despite 20 years of abysmally inadequate funding, the solar option is finally beginning to receive the attention it has long deserved. Federal budgets for solar energy research were barely $100,000 per year only five years ago. But today, under the new ERDA authorization bill,[6] solar energy research could exceed $140 million in fiscal year 1977. As research and development have accelerated, the estimates of the contribution that solar energy can make in all of its various technologies, have tended to grow.

For instance, two years ago, the Joint Committee on Atomic Energy projected that only 1.2 percent of the nation's total energy consumption in the year 2000 would be contributed by solar energy.[7] But in the latest figures released by ERDA, the projected contribution of solar energy to total national energy consumption in the year 2000 has climbed to 7 percent.[8]

Another series of estimates made by three large corporations—General Electric Company, Westinghouse Electric Corporation, and the TRW Systems Group—in studies funded by the National Science Foundation in 1974, found that only 1.6 percent,[9] 3.04 percent,[10] and 5.77 percent,[11] respectively, of the energy needed for heating and cooling of buildings would be met by solar energy in 2000. But a year later, the National Science Foundation staff said that solar energy could provide 3.68 percent of the requirements in that national energy sector by 1985, a full 15 years sooner that the year mentioned in the corporate estimates just cited.[12] By 2000, according to another recent report,[13] that percentage could be 30.

These projections and others have all been tabulated by members of the Small Business Committee staff and Senator Nelson's staff. The table reports numerous estimates, made by experts in both the public and private sectors, of U.S. energy consumption, by total and by function, and of the solar energy contributions, by technology, from 1980 to 2020. Too often estimates of our future energy consumption and of the contribution that solar energy consumption and of the contribution that solar energy might make have been published without reference to other existing estimates. The purpose of the table is to facilitate comparison of projections from various sources made at various times. The table appears in the hearings in two versions,[14] the second being a revision and amplification of the first. The staff has been directed by Chairman Nelson to augment and republish this tabular compilation of energy estimates from time to time, as additional data are required. The hope is that these efforts will also encourage similar and more comprehensive tabulations by others.

B. A small business opportunity—and a national need

Rapidly expanding areas of the economy have always attracted entrepreneurs. The growth of the nation's electronics industry since the Second World War shows that small businessmen with entrepreneurial spirit have been able to capitalize on the needs of the nation. The size of the potential solar heating and cooling market is huge; there were over 68 million single- and multi-family units of housing in 1970.[15] This number grows at the rate of 1 to 2 million units a year.

At least 60 U.S. small businesses are already primarily or exclusively engaged in the research, production and marketing of solar heating and cooling equipment, and some of them have been at it for two decades or more. Much more recently, a few giant conglomerates have cautiously entered the field. Other small businesses—and a few giants—are engaged in other aspects of solar energy conversion: photovoltaic cells for electricity generation, wind power applications, energy extraction from ocean thermal gradients, use of agricultural crops for fuel, bioconversion of wastes into methane, and more.

Following a recent survey that was believed to reach and obtain data from all or substantially all U.S. firms engaged in the manufacture of thermal collectors used to trap heat from the sun for the heating of buildings and water (including swimming pools), the Federal Energy Administration (FEA) concluded that approximately 1.3 million square feet of such solar collectors were manufactured in 1974.[16] A later survey for this committee, made by Senator McIntyre in early 1975, which obtained data from only about half or less of all firms producing solar thermal collectors (a substantially smaller number than the FEA survey), indicated that the 1975 capacity of those firms *alone* was over 7.5 million square feet of collector.[17] It thus appears that the FEA's estimate of 1974 *manufactures*, while accurate, might have been more helpful had it also included an estimate of the production *capacity* of the companies the agency contacted. It seems probable that 1974 capacity was substantially higher than 1974 production; it also seems probable that capacity is growing rapidly. The conclusion to be drawn is that there is in place a small but significant manufacturing capacity for solar collector in this country right now, and it is expanding. With appropriate and wise government action, the industry could and would "take off."

Depending on the type of collector used, the fraction of total energy to be supplied by conventional fuels, and the location and insulation of the building, the quantity of

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solar collector required to heat (and possibly cool) a building may range from under 100 to over 1,000 square feet. Even with reference to the lower end of that range, it must be noted that for the present and the immediate future (next year), the capacity of the emerging solar industry to provide collector is small in comparison to the number of buildings.

But the more important point, to reiterate, is that there *is* a capacity already in place; it *is* growing; and the nation's history in other technologies has repeatedly demonstrated that new ideas and new products can spread with almost unbelievable speed, once they find consumer acceptance. Since one-fourth to one-third of our total national energy consumption goes to heat and cool our buildings, the importance of fostering that consumer demand, in our quest for energy independence is obvious.

While there are few experts who foresee a day when all heating and cooling will be done by the sun, at least one official report estimates that 30 percent of that energy sector can be solar in 2000.[18] Estimates of total energy consumption in that sector in that year range from 21 to 36 quads.[19] Should the 30 percent solar estimate be correct, the saving in conventional fuels would thus be 6.3 to 10.8 quads. Since each quad of energy per year is the equivalent of 472,000 barrels of oil per day, the saving may also be estimated as in the range of 3 million to over 5 million barrels of oil per day—one-half of current oil imports, or more.

Given the eminently practical possibility that such important savings of precious fossil fuel could be realized, year by year in fast-growing amounts for the rest of this century and beyond, it is surprising and disappointing—to say the least—that ERDA and FEA have not devoted a substantially larger, more imaginative and energetic effort to the task of stimulating market demand for solar space-heating and water-heating equipment.

One witness at the hearings, Mr. Barney Mendith (further identified below), suggested one thing that appropriate government agencies could and should be doing now; indeed, they should have been doing it some years ago. It is the preparation and wide circulation, to the business community, of technical and commercial information on solar equipment.

There is no doubt that small development companies and contractors will necessarily play a key role in both creating and filling demand for solar heating and cooling systems. This follows from the present patterns, with conventional systems. But plumbing and heating contractors, electricians, homebuilders and the transportation companies that serve them are as yet not aware—or not convinced—of the profit possibilities in solar energy development. (In this connection, it may be recalled that, as recently as the end of World War II, very few small business office supply firms foresaw the money to be made in office copying devices, and few small camera retailers envisaged the full potential of polaroid photography). The government agencies responsible for leading this nation into the era of energy independence by now should be—but are not far advanced in a vast information effort designed to bring the solar energy message to the business community. By preparing and disseminating to the small business industries just mentioned pamphlets tailored to the needs and self-interests of each industry, the energy agencies could generate badly needed awareness of the potential profits, the relative simplicity and advanced development of the technology, and the growing availability of off-the-shelf products for solar heating and cooling.

C. Apprehension over government policies

Unfortunately, government policies have generally lacked the concern, flexibility and determination necessary to encourage small business participation in the solar home heating and cooling market.

Small business firms responding to Senator McIntyre's questionnaire, and small business representatives who discussed their problems with the committee's staff, showed an almost uniform attitude: Federal policy has virtually ignored the contributions of small business to solar energy research and development. Little money has been available from the Federal Government for small entrepreneurs and investors. In fact, it appears that most Federal expenditures in solar energy R&D have been concentrated among a handful of corporate giants and large universities.[20]

But the policy of Congress, as clearly affirmed in the Solar Heating and Cooling Demonstration Act, is that small business is to be included in the development of solar programs. Section 14 of that Act states:

"In carrying out their functions under this Act, all Federal officers and agencies shall take steps to assure that small business concerns will have realistic and adequate opportunities to participate in the programs under this Act to the maximum extent possible.[21]"

Despite this mandate, the Energy Research and Development Administration's Interim Report (ERDA–23) [22] made little mention of small business, and made *no* mention of the Small Business Administration.[23]

ERDA–23, the working document for the development of solar energy in the United States, emphasized research but did not aim at rapid development of marketing techniques for the existing small businesses with production facilities.

If the interim plan were adopted, ERDA would spend between $100 million and $300 million for solar energy demonstrations before the end of 1979, building from 400 to 2,400 solar heated and cooled units. Homes, apartments, and offices would be included, as part of a national solar demonstration project.[24] However, the ERDA–23 plan made no specific reference to retrofitting the nation's approximately 50 million single-family dwelling units [25] or the apartments in which additional millons of Americans live. Nor did it state whether mobile homes would be considered in early phases of the demonstration program.

II. THE COMMITTEE HEARINGS OF MAY 13–14 1975 [26]

With these apprehensions in mind, the committee began its hearings on the nation's solar energy program and the role that small business should play.

On the first day, May 13, witnesses included solar equipment producers and developers, and representatives for the contractors who will eventually install and maintain solar equipment on a wide scale.

On the second day, May 14, representatives of major executive departments testified. ERDA, the Department of Housing and Urban Development (HUD), and the Federal Energy Administration (FEA) sent witnesses. Other agencies, notably including the Small Business Administration (SBA) and the National Science Foundation (NSF), sent observers to the hearings although they did not testify. SBA did, however, submit a statement for the record.[27]

A. The questions

All witnesses were asked to consider a series of questions:

"Questions on Solar Energy," Exhibit 1 From Remarks in the Senate by Senator Nelson, May 8, 1975

1. Why have the estimates varied so widely—and been so low—on the contribution that solar energy might make, by the years 1985 and 2000, to the Nation's total energy budget?

2. Why has the Federal Government spent so little, and spent it so late, on the development of solar energy, in comparison to expenditures for support of other forms of energy?

3. What contributions to solar energy development have been and may be made by small business?

4. Now that Federal expenditures for solar research, development and demonstration are increasing, what steps are being taken by the various agencies to recognize the contributions and protect the positions of the small business pioneers of solar energy?

5. What amounts and percentages of Federal research, development and demonstration expenditures in the solar energy field have been channeled to small business, to big business, to large universities, to small universities and colleges, and to non-profit organizations other than universities in recent years? What changes in any of the important percentage shares are contemplated in the next fiscal year or years?

6. What are the prospects for greatly accelerating the pace of solar energy development and greatly increasing the percentage of our total energy budget that will be met by solar energy within the next decade?

7. What is the maximum percentage contribution that solar energy could make to the total national energy budget by 1980, 1990, 2000 and 2020? To heating and cooling of buildings? To electricity generation?

8. What types and dollar levels of Federal expenditure would be necessary to attain these maximum percentage levels of solar energy contribution?

9. What are the arguments for and against *maximizing* the solar energy contribution to the total energy budget?

10. What can small businesses do differently and better than large businesses in furtherance of the development of solar energy?

11. Are there documented cases in which small businesses in the solar energy field have been threatened, intimidated, purchased or otherwise suppressed by utilities or large businesses?

12. How can communications on solar energy subjects be improved between the Government and small business?

13. Should there be small business set-asides for the solar demonstration programs?

14. Have technology transfer and technology utilization activities and programs of the Federal Government been useful to small business and designed for maximum benefit to small business?

15. How might the Congress improve the relevant legislation or its own oversight activity in the area of solar energy development?

16. What criteria and accomplishments should the Congress use to judge the success of Federal Government programs intended to foster solar energy development and small business participation in that development? [28]

B. The testimony

In answer to the questions raised, the small business witnesses expressed a strong desire that the government should become more involved in the promotion of solar heating and cooling, but questioned the emphasis of the current program.

Dr. Jerry D. Plunkett, President of Materials Consultants, Inc., of Denver, Colorado, stated that small businessmen have considerable trouble dealing with Federal research agencies.

For instance, Plunkett told the committee that he had developed a research proposal that he presented to the National Science Foundation, which he had previously served as a consultant. NSF rejected the proposal. Plunkett then turned the idea over to the University of Utah in order to testify his theory that the NSF prefers to deal with universities rather than small research companies. The university submitted his proposal (for a ceramic materials study) as its own, and received a grant to do the work. Plunkett said this supported his contention that government research offices are often unwilling

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to work with small businessmen, preferring to turn to universities or large corporations, even when the ideas have merit and the abilities of the researchers are well known to the research agency.[29]

Plunkett also testified that solar energy research and development for space heating and cooling had been substantially and successfully completed, and that further massive infusions of Federal aid for R & D would therefore be superfluous. Federal money, said Plunkett, should be used instead for demonstration projects and commercialization programs for solar equipment.[30]

James R. Piper, president of Piper Hydro, Inc., of Anaheim, California, agreed with Dr. Plunkett. Piper was, in addition, sharply critical of the high unit costs and the low total numbers of demonstration units proposed in the ERDA–23 document. Whereas ERDA–23 projected the expenditure of $100 million to $300 million to install 400 to, at most, 2,400 demonstration solar heating and cooling units by 1980, Piper said that it would be possible for his own company, using existing technology, to install 63,500 units by 1980, for the same $300 milion amount projected on the high side of ERDA's range.[31]

Further, Piper pointed out that the government is currently funding electric and gas utilities to develop solar energy utilization equipment when small businesses are already equipped to do a similar job.[32] He also expressed concern that giant corporations heavily involved in promoting nuclear energy would not do their best to develop solar energy because "it would harm their profitability in other areas."[33]

The third small businessman to testify on May 13 was Barney Menditch, president of General Heating Engineering Company of Capitol Heights, Maryland, representing the National Environmental Systems Contractors Association. Menditch said that installation manuals to teach a businessman how to equip new buildings with solar heating and cooling equipment would be a necessity. He testified that there has been little effort "to get this data in simple form in the hands of the contractors who actually do the design, installation, and service of the climate-conditioning systems."[34]

On the second days of hearings, May 14, Administration witnesses presented views on solar energy development.

Dr. John Teem, Assistant Administrator for Solar, Geothermal and Advanced Energy Systems, Energy Research and Development Administration, noted that the solar heating and cooling demonstration project to be run through ERDA is designed to insure that new technologies be developed with some speed. Said Teem:

"All of the solar technologies under study have a common feature—we know that they will work. In each instance, no major technical barriers exist to prevent the development of practical systems. Widespread use hinges on the production of cost-effective energy systems, and their ready acceptance by society. We do not underestimate the significance of these requirements. Large-scale manufacture of solar systems at reasonable cost will be critically dependent on how well ERDA conducts its research and development program."[35]

Dr. Michael Moskow, Assistant Secretary of Housing and Urban Development for Policy Development and Research, added this:

"The most important role HUD can play in this effort is to assist in the development of a rational basis for such an industry—the creation of standards and certification procedures so that the customer can rely on the product; the development of financing procedures and other incentives which will overcome the current "first cost" problems associated with solar units; the amelioration of local barriers (such as building codes and zoning ordinances) to the widespread use of solar energy for housing; and the dissemination of information about solar energy applications to the industry and the public."[36]

Under questioning, Moskow's testimony also disclosed one grave deficiency in his own department. HUD's Minimum Property Standards do not contain standards for solar heating and cooling, or water heating equipment of any kind.[37] The HUD Minimum Property Standards are used as a basis for determining eligibility not only for mortgage insurance issued by HUD itself but also for mortgage insurance of the Farmers Home Administration and mortgage guarantees of the Veterans Administration. In addition, some private lenders rely on the HUD Minimum Property Standards. The omission of solar equipment from those standards therefore shuts such equipment out of an enormous part of the total housing market.

Immediately after the hearings, Senator McIntyre, on behalf of the committee, wrote to Secretary of Housing and Urban Development Carla A. Hills, requesting that a change in the Minimum Property Standards be made quickly.[38] Secretary Hills, in her response, advised that she had instructed her staff to expedite their development of appropriate provisions in coordination with the National Bureau of Standards.[39]

Donald B. Craven, Acting Assistant Administrator, Energy Resources Development, Federal Energy Administration, said few technological advances are necessary for the development of solar energy for heating and cooling buildings.

Craven told the committee that FEA's efforts would be directed at removing impediments now standing in the way of a more highly developed solar industry infrastructure, while at the same time moving forward with an aggressive commercialization program.[40] He noted that FEA, the agency most confident about the development of solar energy, realized that higher initial costs for solar home heating and cooling systems adversely affect consumer acceptance. He mentioned a need, which he hoped FEA would help to meet, for educating the public to think about the cost of alternative systems for heating and cooling their homes, and providing hot water, in total system life-cycle terms, rather than initial costs alone. When the consumer considers, on an integrated basis, the costs of (1) equipment, (2) installation, and (3) lifetime fuel costs, the sometimes higher initial equipment and installation costs for solar systems will in many situations be overcome.[41]

According to Craven, one way the government could generate consumer confidence in the cost effectiveness and the reliability of solar power for space heating and cooling and water heating, would be through a three-pronged government buildings program now under consideration by FEA and related Federal agencies. Craven stated:

"First, we would require that all designs for Federal buildings initiated from this point on include an assessment of the feasibility of using solar heating and cooling at this time, and the feasibility of including provisions within the design to enable relatively easy retro-fit to solar heating and cooling at some future time.

"Secondly, we would consider that it be required that estimates of costs of buildings, to reduce the demand for energy within buildings, include use of energy conversion products, solar heating and cooling systems, and that these cost estimates be done on a life-cycle costing basis in order to be able to fully analyze the cost of solar as compared with the cost of heating by fossil fuels or electricity.

"Thirdly, we would anticipate that this program might provide for substantial government requisitions of solar heating and cooling systems by requiring purchase of solar systems currently found to be competitive with conventional systems. And also requiring, to some extent, in addition to the purchase of competitive systems, that certain quantities of economically non-competitive heating and cooling systems be purchased by the government in order to contribute to refinements of the technology and to the development of the necessary infrastructure.

"We believe that if this project were initiated now, a substantial amount of oil per day would be saved by 1980 in government buildings, and furthermore, we would have the technology and industry infrastructure in place by that time to contribute aggressively to our national energy goals.

"The significance of this effort would be to have a very stimulative effect on the solar manufacturing industry, and the development of the industry infrastructure."[42]

The *immediate* commercialization of solar heating and cooling is possible, however, and it should be encouraged, according to Craven, at the same time the ERDA and HUD demonstration program goes forward. This announcement that the FEA would be working for rapid commercialization of existing solar energy technologies was based on studies done for the FEA and other agencies.

III. THE WORK TO COME

At hearings already scheduled for October 8 and 22, 1975, and very probably at additional hearings to be scheduled thereafter, the committee expects to continue its exploration of the problems confronting small businesses and the country in the development of solar energy. Among the particular areas that deserve scrutiny are:

(1) Supposed overt or covert opposition to rapid solar development by various institutions, ranging from the oil industry and the electric utilities to the Federal government.

(2) The need to change the focus of all Federal programs on solar heating and cooling of buildings and water from research and development to large-scale demonstration and immediate commercialization.

(3) Governmental regulations—Federal, State and local—that now impede, or that now help, or that might be written or revised to help the development of a large solar heating and cooling industry comprised of thousands of small businesses. Examples are:

(a) The grave obstacle to solar heating and cooling presented by the total omission of solar equipment standards in the Minimum Property Standards of the Department of Housing and Urban Development.

(b) State and local planning practices, building codes and zoning laws, some of which now help and others of which impede the development of solar heating and cooling.

(c) Tax assessment practices and their relationship to market opportunities and consumer demand.

(4) The specific roles and problems of general contractors and the specialized contractors and labor crafts of the construction industry—electrical, plumbing, heating and air-conditioning, carpentry, etc.—in the development of solar heating and cooling of buildings and water on a large scale. Particular attention must be given to preventing unnecessary conflicts in jurisdiction and restrictive work practices.

(5) Reticence on the part of financial institutions to fund solar equipment in new and existing homes, apartments and other buildings.

(6) Possibilities for Federal encouragement to the development of a large solar heating and cooling industry, through such actions as:

(a) Tax incentives of various kinds.

(b) A small business loan program tailored to the needs and problems of this emerging industry.

(c) Direct loans to consumers, or loan guarantees, for installation of solar heating and cooling equipment.

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(7) Possibilities for widespread dissemination, through both governmental and private channels, of solar heating and cooling information. Attention should be given especially to:

(a) Publications containing technical and commercial information for business concerns in various parts of the industry.

(b) Publications for consumers on the potentials of solar products, and on consumer evaluation of competing products.

(c) Publications on the methods of calculating the costs of a heating and cooling system on a life-cycle basis that includes equipment, installation and *lifetime fuel costs*, and the desirability of making such calculations.

(8) Small business opportunities and problems in the emerging solar technologies and industries other than heating and cooling of buildings and water. Among these are:

(a) Electricity generation by photovoltaic cells.

(b) Electricity generation by solar thermal collection through arrays of mirrors or lenses or both.

(c) Combined thermal and electrical power production.

(d) Electricity generation by utilization of ocean temperature gradients.

(e) Use of wind power for electricity generation and other purposes, including production of hydrogen from sea water.

(f) Chemical conversion or bioconversion of sewer and other wastes into the gaseous fuel, methane.

(g) Agricultural production of certain combustible, fast-growing crops, on lands or in the sea, for fuel use.

(9) Economic opportunities and economic problems associated with rapid development of solar energy technologies and applications: new jobs and new opportunities for business profit, and new products for consumer savings and enjoyment, that will be created; existing jobs and capital investment that may be adversely affected. Quantitative estimation of both. Methods for maximizing the former and softening or minimizing the latter.

(10) Measures needed to assure that the solar heating and cooling industry, and other emerging solar industries, will develop along competitive lines and avoid the patterns of concentration and cartelization that have marked energy industries in the past and to this day. Measures to assure that there will be extensive small business participation in all parts and at all levels of those solar industries that are feasible for smaller concerns. (Tentatively, that appears to be *all* parts and levels of the heating and cooling industry, except perhaps supply of such raw materials as glass, and all or many parts of other industries that will be based on more advanced solar technologies, mentioned in 8, above.)

(11) Legislative remedies for the disappointingly small number of solar research, development and demonstration contracts awarded to small business by Federal agencies.

(12) Allegations of excess and injustices in the paperwork required of small business in order to compete for government solar (and other) R, D & D contracts.

(13) Methods for quantitative and qualitative analysis of the costs and benefits to the nation as a whole, especially in environmental terms, of developing various alternative energy options. For example, have there been sufficient, and sufficiently accurate and detailed appraisals of the *net* resources and energy benefits and costs involved in covering hundreds of square miles of desert with mirrors for solar-thermal generation of electricity, as compared with, say, the strip-mining of hundreds of square miles of the nation's surface for coal or oil shale?

IV. CONCLUSIONS

1. The United States and other countries are in an energy situation that is properly called crisis. The cost, depletion, and environmental impact of current sources of energy, coupled with the importance of national security, require each nation to develop a self-sufficient, independent, and decentralized energy system. From the viewpoint of the United States, development of solar energy and other alternative energy sources is the only way to maintain energy consumption without decreasing national security.

2. Had the United States Government followed the recommendations of the Paley Commission in 1952, "for aggressive research for the whole field of solar energy," it seems probable that the country might now be achieving the solar equivalent of—and thereby saving for other uses or for future generations—3 million barrels of oil (or oil equivalent) per day, or more.[43] While the fossil fuels we could thus have saved but didn't are now burned forever, the opportunity for future savings is even greater, and the need more compelling now than in 1952. The nation could and should establish immediately the goal of providing at least 30 percent of its building heating and cooling, and water heating from the sun by 2000, with significant percentage increases each year from now until then.

3. The commercialization of a non-polluting, environmentally acceptable and cost-effective energy system is not a challenge for the distant future. The challenge is now. The United States has a growing solar heating and cooling industry which can markedly accelerate its manufacturing capability provided the proper incentives are there. In fact, a massive research and development program may be unnecessary, if not counter-productive, to the extent that it could further postpone the wide-scale use of solar heating and cooling systems.

4. Until very recently, the Federal government has not accepted that challenge. By ignoring the recommendations of the Paley Commission, it left solar energy up to the small business pioneers and individual innovators who, acting on their own initiative, with virtually no government support, were responsible for almost all of the solar energy research, development, and demonstration work that occurred in this country prior to 1973.

5. Now that the Federal government has decided to embark on an accelerated program for solar energy development, one might think that the pioneers would finally get their rightful share of participation, but that has rarely been the case. The Federal departments and agencies charged with the development of solar energy have not adequately considered the needs and capabilities of small business. The agencies have not sufficiently consulted the Small Business Administration, have not established small business set-asides, and have usually relied on and favored big business concerns and giant universities.

6. While ERDA has determined in its Interim Report that special attention will be given to assure that small business has sufficient opportunity to be considered in the selection of projects,[44] no considered program for small business appeared to have been developed as this report was completed.

7. Anything that slows down the development of solar energy—the one cheap, limitless source of energy that cannot be shut down by war or embargo—is undermining the national security. In a speech before the Exchequer Club, Senator McIntyre noted the relationship of energy to national security:

"What single factor has heightened global tensions? Hurt or threatened the health of our people? Raised havoc with the world economy? Plunged us into a near-depression? Undercut confidence in leadership and policy?

"Would you agree that in a word the answer is 'oil'?

"Would you agree that in a phrase the answer is the industrialized world's enslavement to sources of energy that will soon be exhausted, that can't be renewed, that pollute the world we live in, that lend themselves to ruthless exploitation and blackmail politics, that breed greed, envy, chaos, and war?"

I believe that this enslavement—coupled with a blind refusal to research and develop clean, renewable alternative energy resources—must, indeed, be one of the most calamitous errors in human judgment since time began.[45]

V. RECOMMENDATIONS

1. Special procedures should be introduced immediately, by all responsible agencies, to insure that small business receives its fair share of participation in Federal solar energy research, development and demonstration programs, as the Congress has mandated. The agencies and the Congress should consider—and the committee is now investigating—the feasibility of a 70-percent small business set-aside in the heating and cooling demonstration program.

2. The Energy Research and Development Administration, the Department of Housing and Urban Development, and all other departments and agencies, should structure their policies and award their R, D & D contracts in a manner, and to companies, that will best serve the goal of creating and maintaining a free, competitive climate and avoiding excessive concentration in any of the emerging solar energy industries.

3. ERDA, HUD and other departments and agencies should carefully consider, before awarding any Federal R, D & D contracts to giant corporations, whether the effect of the award might be to slow down rather than expedite the policy and program in connection with which the award was made. In the solar heating and cooling demonstration program, for example, the agencies should make no contract awards where the effect might be to dissuade a financially competent, large recipient from making a risk investment of its own in the same technology, without government funding.

4. Regulatory policies and regulations should be changed, or augmented, whenever necessary and as quickly as possible to encourage solar development. An outstanding example of this need is the continuing failure of the Minimum Property Standards of the Department of Housing and Urban Development to include standards for solar space-heating, air-conditioning and water-heating equipment. That omission shuts such equipment out of a large fraction of all the new buildings being constructed in the country and is directly counter to the national policy as expressed in numerous statutes. HUD should correct this situation at once.

5. ERDA and HUD should increase their information services to heating, ventilating and air-conditioning contractors, in particular, and to all the building trades, in general, to spread technical and commercial knowledge in solar heating, cooling and water heating. Manuals should be developed quickly to provide performance criteria, installation techniques and other necessary data. Such manuals should be given wide circulation.

6. ERDA and HUD should also work to make sure that retrofitting of buildings, especially residences, with solar equipment is undertaken with all due speed in all practical

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cases. Of particular value would be the preparation and wide circulation of pamphlets designed to help the consumer make sensible selections of solar equipment and sensible decisions on the feasibility of retrofitting.

7. The Federal Energy Administration should implement its proposed Federal buildings program as quickly as possible to develop an ethic of low fossil fuel consumption in Federal buildings and to widen the market and encourage the development of an industrial infrastructure for widespread manufacture of solar products.

8. Appropriate committees of the Congress (including this committee) should study the extent and the quantitative and qualitative effects of Federal purchasing of solar heating and cooling equipment by all departments and agencies.

9. Congress should enact tax incentives and consider low-interest loan and loan guarantee programs for the development of solar energy for heating and cooling residences and other buildings, wherever possible and as quickly as possible.

10. HUD and ERDA should proceed more rapidly in the development of model building, planning, and zoning codes, intended to assist and guide municipalities in fostering the efficient use of solar power for heating and cooling of buildings. In this process, ERDA and HUD should consult closely with appropriate officials in municipalities of varying population, climate and topography.

11. ERDA should hire more personnel with small business backgrounds. It should expand the size and scope of its small business office. It should consult regularly with the Small Business Administration.

12. ERDA should concentrate more of its energies and funds on smaller, decentralized applications of solar energy, many of which are already proven, less expensive to implement, less prone to large-scale blackouts or other failures, and less likely to lead the establishment of anti-competitive and concentrated conditions in the emerging solar energy industries.

FOOTNOTES

[1] Hearings on Energy Research and Development and Small Business—Part 1, Solar Energy: How Much? How Much from Small Business? How Soon? Why Not More? Why Not Sooner? Senate Select Committee on Small Business, 94th Congress, 1st Session (1975), hereinafter cited as "Hearings, Part 1."

[2] Letter dated April 25, 1975, from Senator McIntyre to 67 solar heating and cooling firms, with enclosure. For statistical results of aggregate information, see Hearings, Part 1, p. 26.

[3] The President's Materials Policy Commission, Final Report, *Resources for Freedom, Vol. IV, The Promise of Technology*, June 1952, p. 220; hereinafter cited as "Paley Commission Report, Vol. IV" (cited excerpt reprinted in Hearings, Part 1, p. 857).

[4] *Ibid.*

[5] Energy Research and Development Administration, *National Solar Energy Research, Development, and Demonstration Program, Definition Report*, (ERDA–49), June 1975, p. I–2; hereinafter cited as "ERDA–49."

[5a] Paley Commission Report. Vol. IV, p. 217; Hearings, Part 1, p. 850.

[6] H.R. 3474, to authorize appropriations to the Energy Research and Development Administration. Passed House June 20, 1975; passed Senate, amended, July 31, 1975. Figure used is from the House-passed appropriations bill, H.R. 8122, and is intermediate between the authorization figures.

[7] Joint Committee on Atomic Energy, *Understanding the "National Energy Dilemma,"* 1973. Fold-Out "N."

[8] ERDA–49, p. 2.

[9] General Electric Co., *Solar Heating and Cooling of Buildings (Phase 0): Volume 1, and Planning Study, Final Report. Volume 1, Executive Summary*, p. 15 (May 1974).

[10] Westinghouse Electric Corporation, *Solar Heating and Cooling of Buildings: Phase 0, Final Report, Executive Summary*, pp. 45–46 (May 1974).

[11] TRW Systems Group, *Solar Heating and Cooling of Buildings (Phase 0): Volume 1, Executive Summary*, p. 15 (May 31, 1974).

[12] National Science Foundation, as reported by Michael Harwood in article, "But Not Soon," *The New York Times Magazine*, March 16, 1975. (Reprinted in Hearings, Part 1, p. 3469.)

[13] Atomic Energy Commission, *Solar and Other Energy Sources*, report of Subpanel IX (Alfred J. Eggers, Jr., Chairman) to the Atomic Energy Commission Chairman in support of her development of a comprehensive Federal energy research and development program, Oct. 27, 1973; hereinafter cited as "AEC Subpanel IX report."

[14] Hearings, Part 1, pp. 12–23, 815–837. The earlier version of the table also appears in the *Congressional Record* of May 8, 1975, at p. 13573.

[15] U.S. Bureau of the Census, *Statistical Abstract of the United States* (95th ed., 1974), p. 699; hereinafter cited as *"Statistical Abstract: 1974."*

[16] Such collectors can also be used in space cooling applications; but it is likely that few if any, of the collectors manufactured in 1974 were so used. Most of the collector discovered by the FEA survey to have been manufactured last year was used to heat swimming pools. Hearings, Part 1, p. 463.

[17] Hearings, Part I, p. 26. Several of the companies contacted in Senator McIntyre's survey were also engaged in research and some manufacture of devices for generating electricity by wind power.

[18] AEC Subpanel IX report, p. 16; Hearings, Part I, p. 2738.

[19] One quad is one quadrillion (10^{15}) British thermal units (Btu) of energy. Current U.S. national energy consumption is about 75 quads per year. Estimates of total national energy use in the year 2000 range from 124 to 201 quads. The estimates of 21 quads and 36 quads for total heating and cooling energy consumpton in 2000 are from the National Science Foundation/National Aeronautics and Space Administration Solar Energy Panel and the Ford Foundation Energy Project, respectively, See Hearings, Part I, pp. 815–837.

[20] See, e.g., Federal Energy Administration, *Solar Energy Projects of the Federal Government*, PB–241 620 (Jan. 1975), reprinted in Hearings, Part I, at p. 480. The committee staff is currently engaged in an effort to classify and tabulate Federal research, development and demonstration contracts on solar energy by numbers and dollar amounts of awards to big business concerns, small business concerns, and universities and nonprofit institutions.

[21] Solar Heating and Cooling Demonstration Act of 1974, Public Law 93–409, Sec. 14, 93d Congress, 2d Session, Sept. 3, 1974.

[22] Energy Research and Development Administration, Division of Solar Energy, *Interim Report, National Plan for Solar Heating and Cooling (Residential and Commercial Applications)*, ERDA–23, March 1975; hereinafter cited as "ERDA–23."

[23] After the text of this report had been completed, the committee noted that ERDA's Division of Solar Energy had announced one "commercial integrated project to support the national solar heating and cooling demonstration program" in which an attempt would be made to give 50 percent of the awards to teams offering solar energy systems supplied by small business concerns and other "substantial small business participation." *Commerce Business Daily*, Sept. 19, 1975, p. 2.

[24] *Ibid.*, p. 105.

[25] Number of single-family dwelling units estimated by committee staff from data in *Statistical Abstract; 1974*, pp. 695, 699.

[26] *Hearings, Part I.*

[27] *Ibid.*, p. 810.

[28] *Ibid.*, p. 10.

[29] *Ibid.*, p. 39.

[30] *Ibid.*, p. 42.

[31] *Ibid.*, p. 86.

[32] *Ibid.*, p. 82.

[33] *Ibid.*, p. 98.

[34] *Ibid.*, p. 136.

[35] *Ibid.*, p. 168.

[36] *Ibid.*, p. 304.

[37] *Ibid.*, p. 320. [Note.—In an informal comment on the text of this report as approved by the committee, before it was filed, the Department of Housing and Urban Development stated that it is accepting and approving solar equipment applications on an individual basis. Over the years, according to HUD, "several thousand" solar hot water heaters have been installed in Public Housing units in Florida, although few of these are currently in use. Applications for solar water heating equipment in "several hundred" HUD-insured private units are in an advanced state of processing at this time. Pending the completion of solar equipment standards for inclusion in the Minimum Property Standards, those desiring to use solar equipment in HUD/FHA-insured housing should contact the Office of Technical and Credit Standards, Department of Housing and Urban Development, Washington, D.C. 20410: tel. (202) 755–5718.—*Committee editor.*]

[38] Letter dated May 23, 1975, from Senator McIntyre to Hon. Carla A. Hills, Secretary of Housing and Urban Development: Hearings, Part I, p. 1317.

[39] Letter dated June 30, 1975, from Secretary Hills to Senator McIntyre; Hearings, Part I, p. 1318.

[40] Hearings, Part I, p. 414.

[41] *Ibid.*, p. 425.

[42] Hearings, Part I, p. 415

[43] See text at footnotes 3–6 and 18–19 (pp. 2, 43 supra. The 3 million barrel a day figure in this conclusion is obtained as follows: (1) The Paley Commission, in its 1952 final report, stated that by 1975, given an aggressive research effort, 10 percent of the total national energy requirements could be met by solar technologies, with solar thermal collection for the heating of buildings predominant. (2) The national energy consumption in 1975 will be about 75 quads (75 quadrillion Btu.). (3) Since one quad is the equivalent of 472,000 barrels of oil a day for a year, 10 percent of current national energy consumption would be, conservatively, 3 million barrels of oil a day.

[44] ERDA–23, p. 55.

[45] Senator Thomas J. McIntyre, *Yardstick for Survival*, a speech delivered before the Exchequer Club, Sheraton Carlton Hotel, Washington, D.C., Feb. 19, 1975; Hearings, Part I, p. 3044 (also inserted in the *Congressional Record* by Senator Humphrey, Feb. 26, 1975, p. 4440).

STATEMENT OF SENATORS BARTLETT, HASKELL AND JOHNSTON

Senators Bartlett, Haskell and Johnston announce that, having been unable to participate in the hearings with which this report deals, they are unable to associate themselves at this time with the report's summary of testimony, conclusions and recommendations. However, they have no objection to the report's being filed by the committee.

DEWEY F. BARTLETT.
FLOYD K. HASKELL.
J. BENNETT JOHNSTON.

DR. McLUCAS SPEAKS TO NATIONAL SPACE CLUB

Mr. MOSS. Dr. John L. McLucas, Secretary of the Air Force until he became Administrator of the Federal Aviation Administration last month, recently described the current status and outlook of our civilian and military navigation and communication satellites to the National Space Club. These forthcoming spacecraft will enable our aircraft, both civilian and military, to navigate with unprecedented accuracy.

As Dr. McLucas points out, the civilian Aerostat—a joint project of the United States, Europe, and Canada—should permit international airlines flying the Atlantic to save $15 million annually in fuel costs alone by making better use of the existing airspace. Furthermore, he states that the consolidation and automation of air traffic control services permitted by Aerosat should yield additional savings of about $70 million per year.

It is singularly appropriate, Mr. President, that Dr. McLucas made his remarks at a regular meeting of the National Space Club, which has consistently and forcefully encouraged U.S. leadership in space, science, and aeronautics since its founding in 1957. Now in its 19th year, the National Space Club, through its regular meetings, continues to provide a responsible forum for the exchange of information which is of great value to the entire areospace community.

Because Dr. McLucas' remarks before the National Space Club illustrate how the down-to-earth benefits of space technology are improving our lives in many ways, I ask unanimous consent that they be printed in the RECORD.

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

REMARKS BY DR. JOHN L. McLUCAS

It is a great pleasure for me, finally, to keep this date with you. I regret that I was unable to keep my last speaking engagement here when I was Secretary of the Air Force. Now, as Administrator of the Federal Aviation Administration, here I am. I don't want you to conclude that FAA speakers are more dependable than Air Force speakers!

In all seriousness, let me take this opportunity to express my happiness over the years I spent with the Air Force. Those were good years, trying years, exhilarating years. Those were years filled with successes of many kinds, as well as the tragedy of Vietnam—a tragedy for which we as a nation should not blame ourselves, for our goals were honorable, and our sacrifices greater than anyone could have reasonably expected.

On the "successes" side in the Air Force, we can point to a number of very substantial achievements in recent years. Some of those achievements are technological, others are in the realm of human and social progress. Some of those achievements have already reached fruition; others provide the ground work for a technologically advanced and more effective Air Force in the years to come.

We can point to such recent technological triumphs as the F–15 and F–16 Fighter Aircraft, the A–10 Close Air Support Aircraft, the work that we have done on the B–1 Bomber, on the Airborne Warning and Control System (AWACS), and on a great number of systems and subsystems, all of which help us to maintain technological superiority—now and for the near term—that is so essential to maintain an equilibrium with the numerical superiority of the Soviet Union.

In all of these things, it was my aim, in over six years in the Air Force, to help create a stronger, more capable Air Force, leading the way in Aerospace Technology. Yes, those were good years. I enjoyed the rewards, and welcomed the challenges—and was looking forward to more years with the Air Force when the President asked me to become the Administrator of the FAA.

I am honored that the President considered me for the position and pleased to be with the FAA. Like the Air Force, the FAA is an organization that plays a vital role in our nation. I have been in my new job for just a short while—and so will not attempt to speak as an authority on the FAA and all its many activities. Over the years, I have developed a certain wariness of "instant experts"—you know the type.

I must confess, there were some difficulties in selecting subjects of interest to this space-oriented group as well as to my new civil aviation constituency. In that regard, I was reminded of a story told about Woodrow Wilson. It seems that President Wilson was once asked how long he took to prepare a ten-minute speech. He said, "Two weeks." "How long for an hour speech?" "One week." "How long for a two-hour speech?" President Wilson replied, "I am ready now." I don't plan to subject you to a two-hour speech, but I do hope you are comfortable in your chairs.

I alluded earlier to the importance of the FAA. The Congress summed up that Agency's safety responsibilities in this succinct fashion in the Federal Aviation Act of 1958: ". . . To provide for the regulation and promotion of civil aviation . . . as to best foster its development and safety, and to provide for the safe and efficient use of the airspace by both civil and military aircraft . . ."

The FAA operates and maintains what is known as a common system of air traffic control and navigation serving both civil and military aviation. In this area, the FAA has performed remarkably well, achieving a world-renowned standard of excellence as well as keeping pace with the introduction of higher performance aircraft. But of growing interest to us is the future increase in international air transport. Even the most conservative estimates are that the number of passenger miles which will be flown solely by U.S. International Carriers ten years hence will exceed the 163 billion revenue passenger miles flown by U.S. domestic and international carriers last year. We foresee a threefold increase in the number of U.S. flag aircraft on international routes. Foreign aircraft similarly are expected to increase in numbers.

I don't think I need to remind this group what that means in terms of air traffic control services, communications and navigation that will be required by the world's civil air fleet within the next-quarter-century. The implications are enormous.

So I thought that I would discuss with you two satellite-based developmental programs that, very likely, will have considerable impact on airspace management.

There are two satellite-based developmental programs—one civil and one military—which are scheduled for testing and demonstration during the next 10 years. The programs are the Defense Department's Global Positioning System (GPS), or NAVSTAR, and the International AEROSAT Program in which FAA is a key participant. The military GPS/NAVSTAR system will provide a global, all-weather, position determination system of considerably improved accuracy and with performance characteristics better than existing navigation systems. The NAVSTAR system will have two signal formats—an encrypted signal for exclusive military use and a clear signal for both military and civil use.

On the civil side, FAA has been developing, on an international basis, an oceanic communications and air traffic control satellite system called AEROSAT. This system, which also involves Canada and Europe, is designed to provide improved communications and position surveillance over oceanic airspace to handle the increased traffic loads projected for the late 1980's and beyond. AEROSAT will also have a broad band experimental channel to permit investigation of longer range system concepts for possible future application within the continental United States.

Even though both the GPS (NAVSTAR) system and the AEROSAT program are satellite-based systems, the functions which will be performed will be quite different.

The military GPS (NAVSTAR) system is designed to fulfill a variety of critical military positioning needs and requirements for which the satellite capability is well suited. In particular, the system provides extremely accurate instantaneous position, velocity and time information which can be used in a multitude of ways as dictated by military requirements. Representative applications include weapons delivery, command and control, en route navigation, anti-submarine warfare, geodesy and survey, and range instrumentation.

As a matter of policy, DOD is not encouraging others to make decisions or commitments on the use of NAVSTAR until Phase I testing has been completed in 1978, and the DOD has approved the system for development based upon its cost and performance merits in meeting military needs. However, it is possible that the system may have some civil applications of interest to the FAA. But these uses will need to be carefully considered by us and our civil aviation community. I will cover some of the advantages and disadvantages of this military system as applied to the civil sector a little later.

The NAVSTAR Development Schedule consists of three phases:

Phase I—is the test program and is scheduled for completion by 1978. It involves the deployment of six satellites in 12-hour inclined, circular orbits providing coverage of a test area for several hours a day.

Phase II—will be initiated in the early "eighties" with the planned orbiting of nine satellites, providing a full time two-dimensional global coverage system.

By the end of Phase II, a worlwide, 24-hour capability for navigation would exist with an initial accuracy of better than 600 feet and velocity accuracies of 2 knots.

As use of the NAVSTAR System is expanded and its capabilities for other applications are demonstrated, Phase III would be initiated. This involves adding satellites to the "constellation" until a "full system" capability of 24 satellites permitting continuous, worldwide, three-dimensional coverage is attained, probably, by 1984.

Now, to elaborate on the AEROSAT Program.

After more than three years of negotiation involving considerable preparatory work and strong encouragement by the International Civil Aviation Organization (ICAO), AEROSAT has evolved as a program organized by aeronautical authorities in the United States, Canada, and nine member-states of the European Space Agency, formerly the European Space Research Organization (ESRO). The program, slated to cover a span of about ten years, provides for the experimentation, evaluation and demonstration of the use of satellites to provide improved communication and surveillance capabilities for oceanic air traffic services, and perhaps over other areas such as Africa where these capabilities are not now present. At the present time, air traffic control and air carrier communications for oceanic flights are almost entirely dependent on high-frequency

(HF) voice radio circuits. Shore-based extended-range VHF facilities provide communications for oceanic flights up to 400 miles from the coasts. Beyond that range, communication between aircraft and traffic control facilities is by HF and is generally relayed through associated communication stations.

But, as many of you know, HF has well-known propagation deficiencies. Under present procedures, a single HF "family" of frequencies has the capacity to handle the communications for about 50 aircraft and, the number of available "family" is limited. As a result, the future growth in oceanic air traffic is threatened by inadequate communication capacity that cause delays during peak traffic periods.

For oceanic flights, surveillance by ground-based radar or beacon is non-existent because the radar/beacon systems have the same line-of-sight limitations as VHF. Aircraft positions are now derived in the aircraft by on-board navigation equipment and are then reported every 100 of longitude, or every 40–60 minutes of flight, to ground communication stations for relay to the traffic control facilities.

Under these arrangements, oceanic flights must now be provided considerable lateral and longitudinal separation. But obviously, to handle the expected future volume of flights without resorting to excessive delays or unfavorable routings, aircraft separation must be decreased. FAA studies show that by 1986 the successful completion of the AEROSAT Program would solve the communications problem and permit a reduction of route widths and longitudinal spacings over the ocean. Another benefit would be an annual fuel savings of $15 million to international carriers. Furthermore, AEROSAT operations would make possible consolidation and automation of oceanic air traffic control operations for further annual savings approaching $70 million.

Today, there is general agreement that a system of satellites in geostationary orbit offers the best and, really, the only technical solution to the aeronautical communications and surveillance problems over ocean areas.

Such a system would provide high-quality voice and data communication, both for air traffic control and airline operational services. Direct controller-to-pilot communications would be possible. Ranging techniques using two or more satellites, in which a signal to an aircraft is returned over different paths, would permit a ground-derived and "independent" means of aircraft surveillance.

But I must emphasize that AEROSAT is *not* an operational system. The AEROSAT Memorandum of Understanding (MOU) recognizes that it relates only to a system experiment. Moreover, the AEROSAT program politically is a very ambitious one—and, for the FAA, an expensive one. For one thing, inflation and reduced budget authorizations by the Congress have seriously threatened our ability to undertake this expensive project—important as it is. As a result we are doing everything possible to reduce the costs of the system and bring the program in line with our budgetary constraints.

Now, as to some of the advantages and limitations of the civil and military systems.

NAVSTAR is a military system designed to meet military needs. To this end it has excellent performance accuracies. However, at the present time the FAA has no requirement for such a sophisticated navigation capability in its management of air transport operations. NAVSTAR provides navigation but does not include communications or position surveillance while AEROSAT provides communications and surveillance but has no navigation functions.

To sum it up, AEROSAT is a civil system designed to solve a specific set of problems by employing the advanced capabilities of satellite technology. The AEROSAT system addresses the problems which exist in a few oceanic regions while NAVSTAR is designed for worldwide coverage. However, FAA is continuing to examine the long-term use of NAVSTAR navigation signals for civil use. At this time, it is very uncertain whether the cost of NAVSTAR-associated avionics could ever be brought within the reach of general aviation users. Future use of NAVSTAR signals in oceanic and low density areas of the world as a supplement or replacement for LORAN and OMEGA is also being examined.

In closing, ladies and gentlemen, I feel that my years with the Air Force have given me good insight into the problems and needs of military air operations in the United States. With that experience, plus my industrial and technical background. I hope to be able to bring into a greater harmony the sometimes seemingly conflicting desires within civil aviation—the scheduled airlines, our huge general aviation contingent and, importantly, the general public.

As I view it, then, I have a fascinating and a challenging job ahead of me. I accept that challenge.

GI FORUM

Mr. TOWER. Mr. President, in 1945, a young soldier, Pvt. Felix Longoria, of Three Rivers, Tex., lost his life defending America's ideals while fighting against the Japanese. That sacrifice alone is just cause for remembering his death and for affording him the honors due any fallen warrior.

But Private Longoria's battle for the Nation's ideals did not end with his death. Because of racial prejudice that existed at that time, he was not given the dignity and equal opportunity that were rightly his. Instead, it became his lot to touch the consciences of a great many people and to become the symbol of a greater cause.

On October 26, 1975, the Honorable Richard L. Roudebush, Administrator of the Veterans' Administration, told the story of Private Longoria and what his death has meant to veterans of all races, when he spoke at the American GI Forum at the annual Veterans' Day memorial ceremony at Arlington National Cemetery. On that occasion, Mr. Roudebush related the importance of what happened to this young soldier after his death and of its lasting significance to our Nation. Mr. President, I ask unanimous consent that the remarks of Mr. Roudebush be printed in the RECORD.

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

REMARKS BY THE HONORABLE RICHARD L. ROUDEBUSH, ADMINISTRATOR OF VETERANS AFFAIRS

Tomorrow is Veterans Day and here at Arlington National Cemetery and in locations across the country citizens will take time out to salute millions of men and women who have worn our country's uniform and to pay their respects to those who died in it.

Those who gave their lives were all special people . . . to themselves, to their families, to their friends, to those they served with. They were remembered in death by those who loved them and those personal memories continue.

Today we honor a man who died in battle and has found a special place in the memories of many people besides his family and friends.

Today we remember in these ceremonies the life and the death of Pvt. Felix Longoria and we recall the importance of what happened to that young soldier even after his death.

Pvt. Longoria's enemy in 1945 was the Japanese but he, like many other servicemen of that time, had to struggle against more than one adversary. He also had to battle the bias, the prejudice and the unfairness of many who were on his side in the war.

And when his enemy had defeated him . . . when he was dead . . . certain of his fellow Americans sought to go beyond what the enemy had done.

His enemies deprived him of his life at a time when he was able to fight and to try to defend himself. His neighbors sought to deprive him of his dignity at a time when he was beyond the struggle, when he could no longer fight back.

I think it is important that we keep the memory of Pvt. Longoria alive and I commend those who have seen that this has been done for the thirty years since his death.

It is important that we remember the prejudice that existed at that time. But it is equally important that we recall the reaction to that prejudice, the fact that many persons were outraged by it and that action was taken to give Pvt. Longoria the respect that all men are entitled to and the special honor that he had earned as a soldier.

It is possible to recount with shame and with chargin many other instances of prejudice against our fighting men during World War II. We remember the reports of civilians abusing American servicemen of Japanese descent. We remember the news stories of black military policemen being refused service at restaurants that fed the German prisoners the MPs were guarding.

It is easy to recall these things with wonder and amazement that they could have happened a generation ago and to comfort ourselves that such blatant abuse would be unlikely to take place today.

But it would be inappropriate to be too comforted about the lessening of prejudice or about conditions as they exist today.

I think Americans have improved in the last thirty years in the way they behave toward each other. I think most people are more enlightened in their relations with those of different backgrounds, understand others better and have less fear of them.

New laws protect the rights of minorities and provide them greater opportunity.

But I know you agree that the struggle against prejudice and for equality is far from over. And I know you are dedicated to continuing that struggle.

It is particularly important, I think, that all Americans who have worn their nation's uniform, who have given years out of their young lives, who have known hardship and perhaps faced danger, should be able to share fully in all that the Nation has to offer.

The G.I. Forum has not only stood for opportunity for veterans, it has articulated and promoted programs of action to secure that opportunity.

I commend you for what you have done and for what you are doing for Americans of Spanish descent. You have given your cause a strong voice and a great deal of muscle.

We at the Veterans Administration join you in your desire to help veterans and their families take full advantage of programs available to them. We stand with you in urging them to come to VA and we appreciate the help you are giving us in reaching a very important segment of our clientele.

We recognize the language and cultural barriers that exist for many veterans of Spanish descent. We want to overcome them, just as you do.

It is a great privilege for me to be here

today as we salute Pvt. Longoria and those he represents. We remember that Pvt. Longoria died for his country. No man could do more, and that would be reason enough to pay tribute to him.

But he did much more than give his life for a great cause we all believed in, much more, I am sure, than he ever thought he could do.

It became his lot to touch the consciences of a great number of people and to become the symbol of another great cause. Much good has come of the way he has been remembered ... and I hope he will never be forgotten.

I am honored to be with members of his family here today. I appreciate the chance to get to make these brief remarks with them in attendance and I wish them well.

To all who have had a part in planning and conducting this ceremony, I would like to express my gratitude for your kind invitation to be a participant and my congratulations for the success of your work. I look forward to future observances.

PROPOSED ARMS SALES

Mr. HUMPHREY. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the distinguished Senator from Alabama (Mr. SPARKMAN), and the material attached thereto.

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

STATEMENT BY SENATOR SPARKMAN

Section 36(b) of the Foreign Military Sales Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million. Upon such notification, the Congress has 20 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the Chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I attach hereto the notification I have just received. A portion of the notification, which is classified information, has been deleted for publication. The information is available to Senators in the Foreign Relations Committee.

The attachments ordered to be printed in the RECORD are as follows:

OFFICE OF THE DIRECTOR DEFENSE SECURITY ASSISTANCE AGENCY AND DEPUTY ASSISTANT SECRETARY (SECURITY ASSISTANCE), OASD/ISA,

Washington, D.C., December 12, 1975.

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Foreign Military Sales Act, as amended, we are forwarding under separate cover Transmittal No. 76-21, containing information on a proposed Letter of Offer in excess of $25 million for an anti-tank missile system for the Government of Switzerland. The transmittal has been classified at the request of the government concerned.

Sincerely,

H. M. FISH,
Lieutenant General, USAF.

OIL COMPANY PROFITS

Mr. GRAVEL. Mr. President, when the Senate begins consideration of the conference report on the Energy Policy and Conservation Act, S. 622, it is inevitable that much of the discussion will once again focus on the subject of oil company profits and the capital needed for investment in the future. I would like to introduce into the RECORD an analysis of the report done by Morgan Stanley & Co. Morgan Stanley & Co. has been quoted by Senator JACKSON as an expert in the whole subject of "obscene profits" and I had asked them to clarify their position on that issue since it had become an issue of contention in the Senate debates.

In his response to my letter, the author of the studies speaks briefly on the profits that were enjoyed by the oil companies in 1974. He explains that they were inventory profits and will have been wiped out by the end of this current quarter if the present rate of decline in profits continues.

In his analysis of the impact of the current legislation, he is quite plain in his conclusion that the Energy Policy and Conservation Act will have a negative impact on the industry's ability to generate needed capital for future investment. He concludes and I agree that this course of action is a highly illogical way to go about pursuing a goal of national energy self-sufficiency.

Mr. President, I ask unanimous consent to have the letter from Morgan Stanley & Co. and two of their analyses printed in the RECORD.

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

MORGAN STANLEY & CO., INC.,
New York, N.Y., December 4, 1975.

Senator MIKE GRAVEL,
U.S. Senate, Washington, D.C.

DEAR SENATOR: I am delighted to have the opportunity to respond to your letter of November 12. Hopefully this will clear up a matter which has been a cause of personal embarrassment to me. I am aware of the fact that Senator Jackson, who apparently fathered the phrase "obscene profits", has suggested that my use of this word in a report issued February 24, 1975 supported his contention. Nothing could be further from the truth. The word "obscenity" or "obscene" was used twice on the first page of the report, both times in quotation marks, indicating the word was attributed to an outside source. By hindsight it is clear that I either should have made this point more specific or have curbed my attempt at facetiousness.

A cursory reading of the text, however, would indicate that a significant part of the "obscene" or "windfall" profits could be attributed to inventory or currency translation profits, which are by nature transitory. The first paragraph stated that "earnings are in the process of declining" and that "1974 is likely to remain a high watermark for earnings" for some years to come. Nine-month earnings for 20 major oil companies show a decline of $3.38-billion from 1974, or 29.4%. A continuation of this trend in the current quarter would mean that virtually all of the 1974 profit gain will be eliminated. There is abundant evidence that competitive operating conditions in the face of a worldwide recession would have accomplished much of this result even in the absence of Congress' gratuitious gesture in eliminating percentage depletion on crude oil for the majors. (An analysis of nine-month 1975 earnings will be sent to you under separate cover.)

I feel it is clear that any insinuation that I agreed that 1974 oil profits were "obscene" is taken completely out of context of the February 24 report. Furthermore, it is taken out of context of an ongoing body of work. For example, in *Energy Outlook*, May 30, 1974, which originally referred to Senator Jackson's remarks, I wrote:

"The Supreme Court has defined 'obscenity' as '. . . being without redeeming social value'. The social value of profits is that they provide the bulk of the capital for investment in facilities required to meet the ever-growing public demand for goods and services, the hallmark of an expanding economy. It is indeed curious that the same people who question profits are those most rooted to the concept of higher living standards and full employment. One can only surmise either that they do not understand the interrelationship between capital formation and growth (in which case they would only be ignorant) or that they simply believe profits in the hands of private industry are evil. Any comparison of material well-being under the American free enterprise system and centrally-planned economies would hardly support the conclusion that governments can do it better; but, that seems to be the premise of this group."

You inquired as to my conclusions on capital requirements over the next two decades. I rely on outside sources—such as Chase Manhattan (CMB)—for these projections. Most of the estimates I have seen fall in the $30- to 40-billion per annum range. Industry capital and exploration expenditures in the U.S. from 1970 through 1973 (the last year for which CMB industry figures are available) were $38-billion, an average of $9.5-billion per annum. The CMB group of 29 major companies accounted for $29-billion of this spending, or 76% of the total. Assuming the majors continue to account for about three quarters of all capital and exploratory spending, their annual requirement at the bottom part of the above range, or $30-billion, would be $22.5-billion annually.

Yet for the entire five-year period, 1970–1974, these companies had net income of only $21.3-billion, or an average annual rate of about $4.3-billion. During this period, U.S. profits accounted for roughly 44% of the companies profits. Assuming a similar breakdown in overall cash flow, total cash earnings attributed to U.S. operations in the last five years would be about $41-billion, or $8-billion annually. As you can appreciate, this is less than 40% of potential capital requirements. Let us assume that the "obscene" profits generated in 1974 were maintained. Net income attributed to the U.S. last year was $6.4-billion, or 39% of total earnings. Assuming the same distribution of total cash earnings, total cash generated in the U.S. would have been $11.2-billion, or about half of potential requirements. Whatever numbers one wishes to use, it is perhaps sufficient to conclude that capital requirements in the future will be a multiple of those in the past and that neither the historic or current level of oil industry cash flow is remotely adequate to meet these requirements.

One final point of interest: as already mentioned, approximately 44% of cash flow for the CMB Group may have been derived from the U.S. in the past five years yet over this same period, capital and exploratory spending in the U.S. was 54% of the worldwide total. The conclusion that might be drawn from this is that repatriated cash flow from foreign operations has been used to subsidize capital and exploratory spending in the U.S. The availability of this "free" cash flow from outside the U.S. in the future is subject to considerable question now that most of OPEC has nationalized producing operations. I have not touched on the subject of external financing, but I believe that studies done in other departments of this firm indicate that whereas in the past the amount of

capital investment needed has determined the amount of capital raised, in the future the amount of capital which can be raised will determine the number of projects which are carried forward to completion. It is entirely unlikely that oil companies will be able to finance up to 50% of their potential capital requirements not covered by internal cash flow from the capital markets, particularly given investor hesitancy with regard to highly regulated industries. In this regard I am enclosing some recent comments on the proposed Energy Policy Act.

Sincerely yours,

BARRY C. GOOD.

THE PROPOSED ENERGY POLICY ACT
(Excerpt from Research Summary, Nov. 24, 1975)

We have been asked how the pricing provisions of the proposed Energy Policy Act differ from the President's last decontrol plan to the point that our attitude toward the legislative proposals has shifted from positive to negative. It will be recalled that the plan the President sent to Congress on July 25 called for a rollback in "new and released" oil prices (but not stripper production) to approximately $11.50/barrel from the prevailing figure of about $12.30/barrel. Assuming 12% of the barrels represented stripper production, the immediate effect of this rollback would have been a decline in gross wellhead realizations of approximately $687-million.

On the other hand, the immediate effect of the presumed rollback to $11.28 per barrel to meet the $7.66 composite price ceiling mandated by the Energy Policy Act would be $2.1-billion in wellhead revenues assuming a new oil price of $13/barrel, or $3.3-billion using the Conferee's figure of $14.00/barrel for new oil. Aside from the quantitative difference, we note the President's July 25 proposal called for a phased decontrol program under which the amount of old oil under controls was to be decreased by 1.5% per month the first year, 2.5% per month in the second year, and 3.5% over the remaining 15 months of the 39-month decontrol program. (That is, 18% of old oil would be removed from controls in the first year, 30% in the second, and 52% in the last fifteen months.)

While average wellhead prices obtainable under the President's proposal are not materially different from those under the Energy Policy Act *assuming the full 10% adjustment available under the composite ceiling*, we are unaware of anything in the Act that guarantees the maximum adjustment. As we understand it, the only automatic adjustment is governed by the rate of inflation (up to a maximum of 7% if the 3% incentive adjustment is applied), and even this is subject to a freeze in February 1977.

Thus, whereas the President's proposal constituted a clear-cut 39-month removal of controls on old oil, the Energy Policy Act offers a price adjustment scheme whose preponderant part is governed by the GNP deflator, whose 3% incentive factor is dependent on a presidential finding of necessity, and whose application is subject to the whims of the FEA. Finally, it should be pointed out that while crude oil prices could presumably rise to the market level after 39 months under the July 25 proposal, controls under the Energy Policy Act convert to standby authority after 40 months, and this authority does not terminate until after 5 years. In summary, we believe both the quantitative and qualitative differences under the two proposals are significant.

Perhaps even more important than comparing the details of the two proposals is attempting to comprehend the rationale behind the Energy Policy Act. It is common to dismiss this simply as political posturing. However, we believe the position taken by those who would closely regulate the oil industry, while not entirely apolitical, is rooted in the economic concept that prices should be cost—as opposed to market-related. As applied to an industry which must replace its most vital resource—oil and gas reserves—through the process of discovery, we believe this is an extraordinarily counterproductive concept. Twenty-one years of interstate natural gas price regulation would seem to make this obvious. Nevertheless, this thinking not only exists, it appears to be in the majority (public opinion polls notwithstanding), and even if the President vetoes the Act, it will not disappear. Thus while we remain hopeful that a favorable outcome to the great energy debate will still emerge, our conviction in this regard is low.

BARRY C. GOOD.

THE ENERGY POLICY ACT
THEORETICAL IMPLICATIONS

The predominant trend affecting the oil industry in the 1970s has been its progressive loss of control over its own destiny. In the traditional oil-exporting nations, this trend has been evidenced in the transformation of the industry's role from an entrepreneurial to a service function. In this case, at least, the industry was confronted with understandable nationalistic aspirations. The varying degrees of control imposed on the industry in the oil-importing industrialized nations are, perhaps, somewhat more difficult to fathom. We suspect, however, that they result from the suppressed recognition by governments of their own inability to fulfill the dreams of perpetual prosperity which became the keystone of the postwar social contract.

Theoretically, it would follow that the greater the degree of failure public institutions have in maintaining promises to their constituents, the more they will seek to shift the blame elsewhere, principally to the private sector. With ready access to a media generally sympathetic to social idealism, the verbal stage of the transference mechanism seeks to build a mandate for initiating structural change. This is followed by the imposition of controls altering the market process. Since the controls seldom recognize the concept of economic pricing, cash flow is inadequate to meet the demands upon it. Once industry fails to deliver, the government can insist that it must take over the means of production. Those who might wish to contrast the economic experience of England with that of West Germany.

While all private industry must operate under the prevailing socioeconomic framework, the petroleum industry in the United States was rendered particularly vulnerable to government intervention by the confluence of events leading from the oil embargo of October 1973. Long viewed with suspicion as a center of privilege and elitism, the combination of gasoline shortages, escalating product prices, and rising profits proved an irresistible magnet for political attack. However much one might wish to decry these forces as counterproductive, it is both painfully obvious that they exist and patently foolish to believe they will quietly disappear. Thus, the main determinant of oil company earnings will continue to be government policies.

PROFIT IMPLICATIONS

The Energy Policy and Conservation Act which has been agreed to by House-Senate Conferees reasserts the Federal government's role in managing the domestic oil industry's business for at least the next forty months. The principal details of the act as it may affect oil industry profits are outlined in John Wellemeyer's report "Aspects of the Proposed Energy Bill and the Implications of the Petroleum Service Industry." If the President signs the bill, as currently expected, it will be out of political expediency and will represent yet another example of Murphy's law that anything that can go wrong will go wrong.

While a price rollback by itself is not unexpected (*Research Summary* comment: 10/20/75), we had anticipated the trade-off for a rollback would be a definitive schedule of phased price decontrol. We do not view the bill that has apparently emerged as containing such a provision. The President is permitted to adjust the composite $7.66/barrel price upward by no more than 3% per year (i.e., $0.23/barrel from the composite base level). He may propose a modification in this adjustment on the finding that such modification is likely to result in an increase in domestic production. Any modification, however, is subject to disapproval by either house of Congress. We note that the IPAA is forecasting a decline in U.S. crude oil production of 2.7% in 1976, and a number of companies forecast continued declines in Lower-48 production of 3% or more per annum beyond 1976. If correct, this would indicate that the bill does nothing to enhance the oil industry's real cash flow from crude-producing operations. That is, production declines would eliminate the advantage of the 3% price increase.

The balance of the permitted upward price adjustment is subject to the rate of U.S. inflation, presumably as measured by the GNP deflator. The sum of the inflation factor plus the incentive adjustment may not exceed 10% unless the President proposes a modification, which can again be disapproved by either house of Congress. (The maximum implied inflation factor is 7%.) Judging from the continued adversary relationship between Congress and the oil industry, we are not optimistic that any upward modification to the 10% maximum adjustment would be approved. Thus, the bill provides a price-adjustment ceiling but does not ensure a rising composite price floor. Since the bulk of any adjustment will be to offset inflation, it seems clear Congress has reinforced its concept of regulation based on historic or current costs as opposed to replacement costs.

Shown below are average year-to-date crude realizations for a number of major oil companies. In most cases these averages are through the first nine months.

	Estimated Average Crude Oil Price, Year-to-Date ($/Barrel)	Estimated Recent U.S. Crude Oil Production* (B/D)
Atlantic Richfield	$7.46	349,000
Continental	7.43	178,000
Exxon	7.60	675,000
Gulf	6.40	350,000
Louisiana Land	8.50	76,000
Marathon	6.50	166,000
Mobil	6.70	275,000
Phillips	7.50	118,000
Shell	7.40	460,000
Std. Oil (Indiana)	7.94	460,000
Texaco	7.70	570,000
Union Oil	6.25	224,000

* Does not include natural gas liquids.

Although not a foregone conclusion, it is widely suspected that the President will arrive at the composite ceiling price by confining the rollback to the price of new oil. This would require a reduction in the new oil price to approximately $11.28/barrel. Such an event would not appear to be detrimental to the majority of companies listed above. However, there is no indication at present as to how price adjustments will be applied, or whether the application will be consistent from year to year. (The frequent rule changes promulgated by the FEA since its inception hardly inspire confidence in this regard.)

House-Senate Conferees refer to encouraging the development of high-cost and high-risk production and the application of enhanced recovery techniques. This would appear to recognize that the bulk of incremental U.S. production is likely to be achieved as the result of new discoveries in frontier areas (i.e., the outer continental shelf, the Arctic) and through implementation of secondary and tertiary recovery programs in old oil fields. Logically, the highest permitted price would accrue to properties requiring new investment. The problem is that the required economic price in both these areas is considerably higher than the composite allowed price. That is, if the President opts to apply the adjustment only to new oil, thereby maximizing exploratory incentives, he would be reducing or eliminating incentives for enhanced recovery. The President could, of course, adopt the suggestion that yet another category of prices be established for oil recovered through newly instituted secondary and tertiary schemes. Until the method of price administration is determined, however, it is impossible to forecast which, if any, oil company will benefit from the Energy Policy Act.

On balance, however, it would seem fair to project that U.S. crude earnings are unlikely to provide a source of higher profits in 1976. Legislators will now attempt to reach a compromise on natural gas prices. We are dubious that the decontrol measures which passed the Senate will survive the House. We suspect the maximum price for new natural gas that would be allowed under a Senate-House conference would be the thermal equivalency of the composite crude oil price, or around $1.35/mcf. In the absence of legislation to increase natural gas realizations, we expect the Federal Power Commission will move to increase the current 52c/mcf ceiling. While the outlook for natural gas prices is thus encouraging, particularly relative to crude oil, its impact on individual company profits will be tempered by the amount of natural gas that is classified as new.

Implementation of the Energy Policy Act suggests that a multitiered U.S. crude pricing structure will persist for at least forty months. This being the case, the FEA will undoubtedly be required to maintain the current system of allocations and entitlements which have so severely distorted downstream results in 1975. Combined with recent competitive gasoline price cuts, the prospects for higher relative refining/marketing profits beyond the first quarter of 1976 (when the comparison will be against a deficit for most companies) are very unclear. Finally, higher U.S. taxes will have to be absorbed effective January 1, 1976 from limitation of foreign tax credits and July 1 from elimination of percentage depletion on natural gas sold under fixed-price contracts. In sum, if earnings from domestic petroleum operations can show any gain at all in 1976, it is likely to be modest. This would contrast with an estimated earnings increase of around 20% for the Standard & Poor's Industrials.

Superimposed on these less-than-inspiring profit prospects is the virtual certitude that additional legislation aimed at horizontal and/or vertical divestiture will be introduced in the 1976 Congress and will become part of campaign rhetoric. A group of legislators that have seen fit to pave the way toward Project Independence by eliminating percentage depletion for the oil industry under the Tax Reduction Act of 1975 and by rolling back crude oil prices under the Energy Policy Act of 1975 cannot help but pursue its perverse logic through the "Oil Competition Act of 1976."

THE HONORABLE JOHN PAUL STEVENS

Mr. MATHIAS. Mr. President, prior to the submission of Judge John Paul Stevens' name as President Ford's nominee to be Associate Justice of the Supreme Court, I was asked by a number of journalists what standards or tests I would apply in assessing the qualifications of the next nominee to the High Court. I replied only that he or she must be a person who is honest and who understands the Constitution.

Since that time, as a member of the Committee on the Judiciary, I have had the opportunity to review the opinions of Judge Stevens while serving on the Seventh Circuit Court of Appeals, his other legal writings, the financial reports, income tax returns and former client list he was kind enough to provide to the committee, and the reports of the American Bar Association and Federal Bureau of Investigation regarding his fitness to serve.

Based on everything I have seen, heard and read of Judge Stevens since his nomination, and based on the record of his conduct and responses during 2 days of extensive questioning by members of the Committee on the Judiciary, I must say that I am happy to apply that test in his case and to observe that he meets it.

One need not agree with every decision or opinion of a sitting judge such as Judge Stevens in order to recognize his qualities of candor, integrity, intellectual capacity and deep understanding of the spirit and substance of the document which has guided our democracy since its ratification 187 years ago.

For this reason, I was happy to vote in favor of Judge Stevens' nomination when it was unanimously approved by the committee on December 11, and look forward to his prompt confirmation by the full Senate.

I believe we all can be confident that his contributions to American jurisprudence as a member of the U.S. Supreme Court will be substantial for as long as he graces its bench.

SENATOR MUSKIE'S CONCEPT OF THE NEW BUDGET PROCESS AND THE ROLE OF CONGRESS IN THAT PROCESS

Mr. MANSFIELD. Mr. President, I have reviewed the transcript of the proceedings of last Thursday's meeting of the majority conference.

I was most impressed by the remarks of Senator MUSKIE at that conference. As the chairman of the Budget Committee he displayed a fine grasp of the new budget process and the responsibilities of the Congress with regard to that process. For the benefit of all Senators I commend these remarks of Senator MUSKIE and ask unanimous consent that they be printed in the RECORD.

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

REMARKS OF SENATOR EDMUND S. MUSKIE

I would like to make a couple of observations to begin with. I have lived through many of these confrontations between the President and the Congress which were provoked by attempts to set arbitrary spending ceilings. They rarely worked. They always resulted in acrimony and bitterness, in no results. They resulted finally in the impoundment scenario of 1973–74 which resolved nothing. The budget process was created as a result of the failure the last time the President tried to set an arbitrary spending ceiling. So there is that history.

Secondly, and I cannot resist this, with respect to looking ahead a year or two to determine what your spending cuts ought to be, I have two illustrations.

A year ago this President announced that he was going to recommend a balanced budget for fiscal 1976. This was in October 1974. Five months later, in February, he sent his budget to the Hill and it was in the hole $52 billion. He was not able to look ahead 5 months at that time. His own latest figure on the deficit for this year is about $68 billion. So that is the margin of error with which he has worked.

Another point: Since his last budget review for this year, which takes place about June 1, his own budget has gone up $8.6 billion because of uncontrollables which were not accurately estimated June 1. This is December and he was off by $8.9 billion just on that part of the budget in less than 6 months.

Let's look at his proposal. First of all, he proposed cutting $28 billion. How did he arrive at that? First, he projected outlays or potential outlays of $423 billion for the next fiscal year. Where did he get it? I have been unable to find out.

Under the Budget Act he is required now to send up a current services budget in November. This pamphlet contains that. Is the $423 billion in here? The answer is no.

We projected four different sets of economic assumptions in order to give us not one number on outlays but four, from the most optimistic economic assumptions to the least optimistic.

The range of his outlay numbers is from $410 billion to $414 billion. So the highest number is $9 billion below the $423 billion which was the basis for his $28 billion in cuts.

We do not know the make-up of the $423 billion at all. He has not sent it to us. This pamphlet was printed after he made his proposal. The $423 billion is not in here, nor is the basis for it. The justification for it is not in here.

Then how about the $28 billion in cuts? If he does not have $423 billion in outlays and his proposed spending ceiling is $395 billion, then is he proposing cuts of $15 billion or $19 billion or $28 billion? He has not made that clear. He said that the number is $395 billion, but he has not told us how that relates to an outlay figure.

As to the $28 billion, what does that consist of? He did not tell us at the time. Since that time, the Budget Committee has had extensive hearings with Mr. Lynn, with Mr. Simon, with Mr. Burns, and we did our best to solicit from them the details of the $28 billion in cuts. We still have not received them.

If the administration in a 2-month period has not been able to make up its own mind, its collective mind, as to what the cuts are, where they ought to be, it is a little difficult for us to get a handle on them.

So we are talking about a $423 billion outlay figure that is a complete phantom, that is not found anywhere except in the President's speech of that night. Nowhere else have we found it.

Secondly, we are talking about a $28 billion cut which is not substantiated in any way whatsoever. The OMB leaks pretty well from time to time. We have not had even a leak as to the composition of that $28 billion in cuts. Now we are asked to establish an outlay ceiling of $395 billion.

As Russell says, that may be a figure that we agree upon.

What have we done as a Congress? We have prided ourselves, and I think justifiably, that we have at least set in motion a process which would lead us to fiscal responsibility and budgetary prudence. I think the case is pretty good on that score, but history will

judge better. In any case, what we are about to put in place for this fiscal year, in accordance with the law that we enacted over a year ago, in accordance with the law which administration witnesses have applauded to the skies, what we are about to put into place when we act on the second concurrent resolution this week—and I expect it will be this week—is this: An extension of the tax cuts we enacted into law this year, and that number is a result of a deliberate, rational process of discussion which has included the Finance Committee, the Ways and Means Committee, the Budget Committees of both Houses, and the Senate and the House of Representatives.

That number is not a figure picked out of the air. On our side, it is based upon the testimony we have received from economists across the board, liberal, conservative, Keynesian, monetarists, and what have you. That figure made sense as against the higher cut that the President is proposing.

We considered the higher cut. We got almost no testimony in support of it. This cut was the sensible one. Its purpose was simply to avoid the drop in withholding rates which would have the effect of impacting upon every individual taxpayer. So that $6.4 is a hard number and nobody in the Budget Committee on our side, nobody on the floor of the Senate on our side, offered any amendments to change it. If there was a Presidential spokesman on the floor of the Senate, he did not raise his voice. If there was one in the Budget Committee, he did not raise his voice. So that $6.4 billion in tax cuts is firmly based upon a considered judgment of the Congress of the United States. We have a right to make that. The Constitution says we have the power of the purse. We have the sole power to raise revenues. That is our decision, and I think we ought to make it stick, frankly.

Second, when we approve the second concurrent resolution this week, we will be putting firmly into place a ceiling for outlays in this fiscal year that will subject anything that breaches the ceiling to a point of order, the toughest kind of discipline that the Congress has ever adopted with respect to spending legislation, a ceiling at $375 billion.

There are those who would like to see it lower; there are those who would like to see it higher. But that also was the result of a kind of process which has made it possible for us to bring 535 different human beings in the Congress of the United States into agreement on what the national interest requires by way of outlays for this fiscal year.

And may I say, incidentally, if you compare that with the President's, using common assumptions, about sales of Outer Continental Shelf oil leases, about other kinds of common things that are not going to change, we are pretty close to the President's numbers for this fiscal year. We are going to put it in place and enforce it for the next 6 months with a point of order to strike at anything that breaches that ceiling.

That, to me, is a demonstration of fiscal responsibility to the country that the country should take some assurance from and that this administration ought to take some assurance from. What they want to do is to completely torpedo it. They want to take it back to the prebudget process days when they laid down the mandate and we had no chance to look at it.

We will set a ceiling for 1977 next May 15 that is mandated by law, a law signed by the President of the United States. That is the date that we agreed between us should be the date for setting a spending ceiling.

Why we should let the President, for his own political purposes, change that law, modify it unilaterally, bludgeon us into changing, is beyond any conception I have of what the will of Congress may be.

So I say to my colleagues, I don't think the other option is available to us. I think we have only one—to enforce the policy that we have taken a year to put into place, and to challenge the President who would undermine this budgetary process from which the country is taking a great deal of assurance and growing confidence in the public policy-making of this country.

I hope we have a unanimous vote in this Congress to support Russell, and specifically, I think all the budget resolution does is assume revenues until July 1. So if Russell's bill extends the tax cuts only until July 1, that fits us. It also fits the May 15 date for setting an outlay ceiling. So all of it goes together.

May I say when we finally act on both of these things, we will have acted 4 months in advance of the beginning of the fiscal year for which the President is arguing, and that is not bad.

RHODE ISLAND DAY

Mr. PELL. Mr. President, my colleague and friend, Congressman FERNAND ST GERMAIN, made some remarks on Rhode Island Day which I believe might interest my colleagues.

We gave a concise, thorough review of the history of Rhode Island and the Providence Plantations. He stressed the emphasis that has always been given in our State to the quality of independence and the tradition of free thought that we have had since the time of Roger Williams.

But, he also added his own qualities of humor and style which made his a truly delightful speech.

I hope my colleagues may enjoy reading it as much as I enjoyed hearing it. I ask unanimous consent that the speech be printed in the RECORD.

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

REMARKS OF CONGRESSMAN FERNAND J. ST GERMAIN, RHODE ISLAND DAY, DECEMBER 9, 1975

A few years ago, Phyllis Meras titled an article in the Providence Journal "We've got more history per square mile than we have square miles."

That thought immediately came to mind when the good people of the District of Columbia Bicentennial Commission asked me to make a short recap of our State's history on this gala occasion.

Without intending any slight to the Norsemen, the Indians or Giovanni Di Verrazano, I think we can count Roger Williams' arrival in 1636 as the beginning of Rhode Island's history. We are all familiar with Roger Williams' story . . . How his outrageous social attitudes so distressed the elders of the Massachusetts bay colony that his presence was considered a threat to the peace of the community. Roger, with a commendable spirit of self-preservation, gathered his friends in one leaky canoe and departed Rehoboth via the Seekonk River. You can imagine their relief when the party was greeted by friendly Indians with the famous "What Cheer, Netop?", and they immediately and industriously set about the development of a choice bit of East Side property, in what is still the high rent district.

Early Rhode Islanders were a remarkably contentious lot. Wars with the Indians and court battles with each other seem to have been the chief form of diversion for the colonists. Most of the lawsuits had to do with boundaries; not only for personal property, but of the growing State. It took a decree from His Majesty, George II, to settle our eastern boundary in 1746. Massachusetts was forced to return the towns of Bristol, Tiverton, Warren, Cumberland and Little Compton, and I am certainly grateful for that wise decision, as those towns comprise a substantial part of my congressional district.

The Providence compact, the law of the early days, decreed that "any man shall have liberty to sell liquor without doors, no man forbidding him." This instance of farsighted free enterprise soon sent the price of liquor out of hand, and the town of Providence set a ceiling price of three shillings per quart on all liquors in 1650. How things have changed!

Recognizing the evils and pitfalls of gambling, the early settlers passed a law forbidding lotteries. Two hundred and forty years later the General Assembly, recognizing the benefits to be gained by getting a piece of the action, repealed that statute, so that we could all play and dream of winning "the lot".

The spirit of independence, so apparent from the beginning in our State, took a decidedly hostile turn against British rule as early as 1769, when the disgruntled citizens of Newport destroyed the sloop "Liberty". In 1772, we burned the "Gaspee", thus providing Warwick with a wonderful excuse to party and parade for several days each spring.

On May 4, 1776, the General Assembly formally declared our independence from the British crown. As you know, the other colonies didn't get around to that measure until July. Having taken that first decisive step, we were in no hurry to ratify the Constitution. Only when the exasperated other States threatened to declare Rhode Island outside the United States, and our very profitable trade subject to taxation as a foreign power, did we give in and sign the Constitution—the last of the original thirteen colonies to do so.

Now part of the new Nation, the citizens of Rhode Island embarked upon the pursuit of their favorite pastime, politics. It is customary in our state for Democrats and Republicans to engage in spirited dispute within the respective parties. The primaries represent the most colorful, knock-down, drag-out battles . . . replete with heated accusations, rebuttals and name-callings, and the general elections that follow pale by comparison.

Dorr's rebellion was an early instance of political free-for-all that is somehow typical of Rhode Island's fervor. In the middle of the 19th century, when the textile industry had brought hoards of new citizens into our midst. The existing law allowed the vote only to landowners and their eldest sons. Thomas Dorr took exception to that premise, and formed the suffrage party, which would grant the vote to every adult male. The landowner's party and the suffrage party each elected their own governor, and as all state business came to a halt at this confusion, both appealed to President Tyler to settle the matter. He refused to intervene, and, in desperation Dorr's party commenced open warfare by attempting to capture the arsenal in Providence. As a dense *fog* had settled over the state, the battle became a haphazard affair, with the only casualties being a cow, a bystander and Dorr's pride. He escaped to Connecticut.

1924 was a banner year in the political wars, it seems. Two cryptic little entries in the Rhode Island Almanac read as follows:

"June 19, 1924—Bromine gas bomb ends Democratic filibuster in the State Senate; five members collapse.

"June 23, 1924—Republican Senators, failing to get protection, flee to Rutland, Massachusetts, in 'exile' indefinitely."

Now, perhaps that explains why we have so few Republicans in the general assembly today. Many never returned from Rutland, Massachusetts.

Among the most famous attractions in Rhode Island are those amazing palaces and mansions of Newport, built in the 19th century. The millionaires who lived in them—

only in the warmest summer months—quaintly called them "cottages". Those cottages were mighty hard to heat, and if the tax laws had not already discouraged single ownership of the properties, today's electric bill fuel adjustment charges would certainly have done the job.

As the Nation's smallest State, Rhode Island must fight for every scrap of recognition, and we are intensely proud of our individuality. Among all the available choices for a state symbol, what other state would have the temerity, the nerve and the pugnacious pride to choose a domestic chicken—"our beloved Rhode Island Red."

SMALL RECLAMATION PROJECTS ACT

Mr. CHURCH. Mr. President, I rise in strong support of Senate passage of H.R. 6874, a bill to amend the Small Reclamation Projects Act of 1956.

With the passage of the original Small Projects Act in 1956, Congress created a valuable tool for the development and effective utilization of water and related land resources in the arid Western States. For almost 20 years this program has been wholeheartedly pursued by the water resources community and the program's history is one of continued success. The importance of the program to the Nation can be measured by the number of projects which have been initiated under the act. Nationwide, 49 loan projects have been completed with loans totaling $95 million, and 15 more projects valued at $65 million are under construction. Over $240 million worth of potential projects are presently in various stages of preparation. Without question, this program benefits the entire Nation.

On May 21 of this year, I introduced S. 1794, a companion measure to H.R. 6874. On September 16 the Subcommittee of Energy Research and Water Resources of the Senate Interior and Insular Affairs Committee held hearings on S. 1794. As chairman of the subcommittee, I can report to my colleagues that the small reclamation projects program is continuing to function well but is in need of revision. Congress has periodically reviewed the small projects program and has amended the basic act to reflect changing times or congressional intent for the program. Evidence gathered by the subcommittee during the September 16 hearing indicates that the act is again in need of amendment if it is to continue to be a viable asset in the development of Western water resources.

Foremost among the needs faced by the program is the ability to adjust to inflationary cost increases in construction. Over the past 3 years since the act was last amended, inflation has eaten away at the authorized cost ceiling for projects in such a way that current projects under the act are only two-thirds the size originally envisioned by Congress. H.R. 6874 would provide for the adjustment of cost ceilings to reflect inflationary pressures. Additionally, because of the enthusiasm with which the program has been pursued by the water resources community, there is a need to increase the authorization level for the entire program. And finally, testimony indicated that a saving may be realized to the program if authorization is given for the use of program funds for the purchase of existing project related facilities, thereby preventing useless duplication of project features.

Mr. President, H.R. 6874 reflects two decades of experience with a widely used Federal program and with enactment, Congress will insure that the Small Reclamation Projects Act will continue to be of vital service to the production of food and fiber for the Nation and the world.

I strongly urge the Senate's approval of H.R. 6874 as reported by the Committee on Interior and Insular Affairs.

SUPPORT FOR THE CONFIRMATION OF JUDGE STEVENS

Mr. BAYH. Mr. President, the Judiciary Committee has unanimously reported favorably the nomination of Judge John Paul Stevens to be an Associate Justice of the Supreme Court. Before deciding to support this nomination, I viewed the testimony presented at hearings as well as the opinions of Judge Stevens, his other legal writings, his medical records, his financial statements and income tax returns, his former client list, and the ABA and FBI reports on him.

My decision to support this nomination was not based on ideological kinship. Indeed, certain of my positions directly differ with those taken by Judge Stevens in his opinions as an appellate judge and his testimony before the Judiciary Committee. His views, in particular, on equal justice for women do not demonstrate the type of empathy and concern that I would prefer in a Supreme Court justice. For that reason alone, if the choice had been mine, Judge Stevens would not have been the nominee. My nominee would not only have been someone who had greater understanding of the real nature of the discrimination faced by women in our society today, but would also have been someone whose general beliefs and convictions more closely mirrored those of the two previous holders of this seat on the Courts—Mr. Justice Douglas and Mr. Justice Brandeis.

However, I do not believe it is responsible to oppose a nominee solely because that nominee's views differ in part from mine or the nominee's predecessors. Therefore, in deciding whether to support Judge Stevens, I did not simply compare his views with mine or with William Douglas or with Louis Brandeis. Rather, I carefully considered whether this nomination ran afoul of the same standards I used in deciding to oppose the nominations of Judge Haynsworth, Judge Carswell, and Mr. Justice Rehnquist. It is clear to me that it does not.

First, I considered whether Judge Stevens was intellectually and professionally qualified to sit on the Nation's highest tribunal. It was, of course, the distinct absence of such intellectual and professional qualities that forced me to oppose the nomination of Judge Carswell. Judge Stevens is an individual whose intellectual abilities and professional achievements are substantial. That fact is undisputed by everyone who knows Judge Stevens or who has examined his record.

Second, I considered whether Judge Stevens has demonstrated the personal and judicial integrity expected of a Supreme Court Justice. As you know, Mr. President, it was the lack of such propriety that led me to oppose the nomination of Judge Haynsworth. Judge Stevens is clearly a man of great integrity. In his service on the Seventh Circuit Court of Appeals, he has scrupulously observed the highest standards of judicial propriety. In this respect, he can serve as a model for the entire Federal judiciary.

Third, I considered whether Judge Stevens' views demonstrated the kind of gross insensitivity to the rights, liberties, and protections guaranteed to individuals by the Constitution that forced me to oppose the nomination of Justice Rehnquist.

As I noted, there is one area—the legal rights of women—in which Judge Stevens' record causes me deep concern.

As one who has fought long and hard to establish many of the legal guarantees against discrimination based on sex, I was disturbed by the narrow scope of reasoning used by Judge Stevens in his dissent in *Sprogis* v. *United Airlines Inc.* 444 F. 92d 1194 (7th Cir. 1971). In this case, despite existing equal employment opportunity guidelines to the contrary, Judge Stevens refused to consider United Airlines' practice of marital status discrimination against married stewardesses as sex discrimination under title VII of the Civil Rights Act of 1964.

In his dissent Judge Stevens argued that firing married stewardesses did not constitute discrimination based on sex but rather was discrimination against a certain class of females—therefore not covered by the statute. Judge Stevens, in a footnote to his dissent, stated that indeed had United Airlines employed males and females in the same job category and applied a no marriage rule for females only, his findings would be quite different.

This narrow finding of what constitutes sex discrimination ignores the fact that a great deal of the most invidious form of sex discrimination comes from sex role stereotyping. Judge Stevens, while finding he could not support this line of reasoning, at least showed he was not totally insensitive to this very real problem when he stated:

> As I understand the majority's test, it did not focus on the impact of a rule on the employment opportunities of the members of one sex as opposed to the other: instead the critical inquiry is whether the rule is an irrational attitude toward females. As a matter of policy, the majority's view may not only be contemporary, but also wise.

Judge Stevens' findings in this case, as in many other cases relating to women, reflects his overall tendency to apply the narrowest and simplest interpretation to the statute in question. This narrow type of legal reasoning is evident in other cases such as *Cohen* v. *Illinois Institute of Technology*—F. 2d—(7th Cir., Oct. 28, 1975) and *Doe* v. *Bellin Memorial Hospital*, 479 F. 2d 756 (7th Cir., 1973).

In both of these cases, he applies a very strict standard of what constitutes State action, declaring that the simple receipt of Federal funds is not sufficient in and of itself to constitute State action. By the use of such a narrow interpretation, Stevens limits the application of Federal discrimination standards to private educational or medical facilities, despite their receipt of Federal financial assistance.

Particularly distressing to me was Judge Stevens' statement on the Equal Rights Amendment during the Judiciary Committee hearings on his nomination. I do not believe that Judge Stevens believes in discrimination against women. I do not believe that Judge Stevens is totally insensitive to the vast scope of what constitutes sex discrimination. I do believe, however, that Judge Stevens' narrow line of judicial reasoning could deny to women the broader protection that should be afforded them under the 14th Amendment and which will be guaranteed when the ERA is ratified. As the Senate author of the equal rights amendment, I can assure Judge Stevens that its intent and its impact is considerably more than symbolic.

While, as I have noted, Judge Stevens' views on the rights of women are in certain cases deeply troubling, I do not think that on balance, Judge Stevens' failings on women's issues are of such magnitude to deny his confirmation.

With respect to the rights of groups other than women who have often received less than equal treatment before our courts, I am also satisfied that Judge Stevens, while holding somewhat more restrictive views than mine, does not evidence a general insensitivity. In fact, in certain areas, his opinions and testimony indicate empathy with the rights and aspirations of minorities.

Mr. President, for the reasons that I have just outlined, I have decided to support the nomination of Judge Stevens before the Judiciary Committee and the Senate, and I am hopeful that this nomination can be soon confirmed and the Supreme Court restored to full membership.

CONSTRUCTIVE CONTRIBUTIONS TO AID HANDICAPPED PERSONS ARE MADE BY VOLUNTARY GROUPS—EASTER SEAL CONVENTION STRESSES MUTUAL EFFORTS—CONGRESS PROVIDES NEEDED LAWS

Mr. RANDOLPH. Mr. President, the National Easter Seal Society for Crippled Children and Adults Convention November 4 through 8, in Louisville, Ky., demonstrated the constructive contributions being made by voluntary organizations. The convention brought together over 1,000 representatives of such diverse fields as dentistry, design, recreation, employment, and the entire scope of health and social services to the handicapped.

In the keynote address, Dr. Leonard Silverstein, Executive Director, Commission on Private Philanthropy and Public Needs, reviewed the scope covered by the Commission's 3-year study of the role of private philanthropy today. He commented on the decline in private contributions due to recent hearings, and the increase of Government intervention. Dr. Silverstein analyzed the validity of current proposed legislation which threatens to decrease the mainspring of revenue for private philanthropy. Said the Director:

> The uniqueness of the American private sector needs to be sustained if we are to have a genuinely free society in America.

Included was an award to the Greyhound Lines for its recent action in making facilities available to the handicapped; an award to Universal Studios for the film, "The Other Side of the Mountain" which was accepted by Lucie Arnaz; and the presentation to the delegates of the 1976 Easter Seal Child, Miss Kerri Hines of Pontiac, Mich.

Throughout the meeting, convention participants in forums addressed themselves to a myriad of subjects, including reaching out for employment opportunities for persons with handicaps, and reassessing needs for rehabilitation services from the clients' point of view. Attitudes of life style for handicapped persons, integrated camping experiences for the disabled with the nondisabled, special needs for the handicapped for dental services, and recent research in infant stimulation and early detection of handicaps in the newborn—all were stressed.

Volunteers and staff in Easter seals and allied agencies analyzed some of the social and legislative forces affecting service to the handicapped. There was a discussion on the Health Planning and Resources Development Act, as well as a detailed explanation of title XX of the Social Services Act.

In a workshop, professionals and parents looked at methods of involving parents or handicapped persons themselves, in assessing the needs of the client for rehabilitation services. The process for training professionals was cited as an area needing improved emphasis in dealing with handicapped clients and their families.

The American Occupational Therapy Association and the American Speech and Hearing Association were two cosponsoring agencies. In the workshop sponsored by ASHA some 200 registrants learned techniques for relating the process of speech therapy to the total rehabilitation of the handicapped child.

The Academy of Dentistry for the Handicapped sponsored a thought-provoking session devoted to new concepts in dentistry for the handicapped, including proper nutrition, new techniques in dental surgery, and special inpatient treatment.

Last year, Mr. President, it was my privilege to speak at the Academy's national convention on Congressional concern and commitment to the total rehabilitation of the handicapped. I am gratified that the academy's "Campaign of Concern" and commitment to the handicapped has stimulated the application of new concepts in the care of handicapped persons' dental needs.

The involvement of the evergrowing number of self-help groups was witnessed in the Easter Seal Convention program. ALPHA–Action League for Physically Handicapped Adults, Inc.—participated in a specially designed forum to discuss barriers posed by peers, parents, and professionals to the independent life styles sought by many of our Nation's handicapped citizens.

Barriers faced in the manmade environment by persons with handicaps was the focus on the final day of the convention. As a founding member of the National Center for a Barrier Free Environment, the National Easter Seal Society for Crippled Children and Adults sponsored the national center's first annual meeting as a part of its convention. The meeting open to the public brought over 200 persons from nearly every State in the Union and Canada.

This conference on "Developing a Barrier Free Environment," which closed the Easter Seal Convention, highlighted the implications of some federally funded projects underway to identify deterrents for accessibility, to develop standards in the manmade environment, and develop design standards. Other resources are needed by architects, designers, builders, and municipal officers to insure accessibility features in the construction and remodeling of buildings across the country.

This conference on the problems handicapped persons face when confronted with architectural barriers will result in increased public awareness of the fact that our society has not provided to the handicapped population full freedom to enjoy the benefits of our society.

Congress has taken steps to eliminate these barriers which exist for our handicapped citizens. In 1968, we worked to pass the Architectural Barriers Act. That legislation required that all Federal and federally assisted buildings must meet accessibility standards. September 26, 1973, the Rehabilitation Act of 1973 became law; that measure included a provision, which I authored, to establish a Federal Architectural and Transportation Barriers Compliance Board to insure compliance with the 1968 law. Amendments to the 1973 act, which became law on December 7, 1974, further strengthened the Board and provided it with an enforcement mechanism.

On February 7, 1975, I introduced Senate Concurrent Resolution 11 which states that there shall be a national policy to recognize that all citizens, regardless of their physical disabilities, have the right to full development of their potential through the free use of our environment levels.

A highlight of the convention was the luncheon sponsored by Rehabilitation International, USA. The speaker, Arieh Fink, president-elect of the 13th World Rehabilitation Congress, extended an invitation to send delegates to Tel Aviv, Israel, on June 13 through 18, 1976.

VETERANS DESERVE EDUCATION AND JOB ASSISTANCE

Mr. BAYH. Mr. President, nearly one out of every two Americans is a veteran or the dependent or survivor of a veteran. For the past several years, Congress has taken the initiative in providing various kinds of assistance to veterans,

their survivors and dependents, with little help from the administration.

Once again, we are witness to another instance of administration insensitivity to veterans' needs—and callous disregard of the obligation which this country owes to men and women who gave their lives, their health, years of absence from occupations and families, to serve their country.

The administration has proposed a recision of $23,750,000 in the veterans' cost of instruction program—VCOI—the full amount appropriated. I urge my colleagues to oppose the recision; I believe that in this instance, as in the past, the Congress will act to maintain an acceptable level of educational assistance to veterans.

Since the inception of the VCOI program in 1972, it has recorded impressive achievements. More than 1,200 institutions of higher learning now have offices of veterans' affairs. More than 800,000 full-time undergraduate veteran students utilize VCOI services. The number of veterans with educational deficiencies who are receiving VCOI assistance is increasing rapidly; more than 40,000 undergraduate veterans are receiving tutorial and remedial assistance from VCOI.

Yet, despite its important role in providing veterans with the necessary tools to become productive members of society, VCOI has been struggling against administration intransigence and negativism. In 1973, President Nixon impounded VCOI's funds; it required a court order to obtain release of those funds.

In 1974, President Ford vetoed the Veterans' Education and Rehabilitation Amendments of 1974, a bill to increase education benefits for Korean war and Vietnam-era veterans. Congress overrode that veto by stunning margins: by 90 to 1 in the Senate, 394 to 10 in the House of Representatives.

In fiscal 1975, President Ford requested authority to rescind the $23.75 million appropriated for VCOI; Congress disagreed and denied him that authority.

The fiscal year 1976 education budget request from the administration contained not a single dollar for VCOI. The House and Senate Appropriations Committees wisely and responsibly included $23,750,000 for the program—the same level provided in 1975.

President Ford vetoed the education appropriations bill. Once again, the Congress overrode the veto.

Now the Congress is presented with six proposed recisions to cut education programs by $1.3 billion—including a proposed recision for the entire $23.75 million appropriated for VCOI.

Mr. President, we must do everything in our power to assist veterans to obtain the education and skills necessary to find employment. Veterans' unemployment continues at 22 percent for young veterans aged 20 to 24; more than half a million veterans between the ages of 20 and 34 remain out of work.

Many young veterans have been chronically unemployed since their discharge. And many of these face serious disadvantages in obtaining jobs and advanced training. Over 600,000 Vietnam-era vets never received high school diplomas; many others have serious educational deficiencies. These are the individuals who need special help. In many cases, remedial and tutorial help is available only through VCOI.

The administration has offered no meaningful program which will put veterans to work. Continuation of the VCOI program is essential to provide veterans with education and training opportunities, and to insure that they obtain maximum benefit from the GI bill rather than be forced to exist on unemployment compensation or welfare.

Provision of education and occupational skills is not only a basic part of our obligation to veterans and their families. It makes sense in terms of our national economy; the training of men and women for productive jobs is not only important in terms of human dignity, but in fiscal terms as well. I continue to believe that every Federal dollar spent should be spent for a constructive goal. The education of the unemployed is such a goal. Welfare or unemployment payments—while sometimes necessary—are a stopgap measure which do not serve to put people back to work.

The administration has defended the recision request on the grounds that VCOI is unnecessary, because it duplicates Veterans' Administration activities. Yet the Veterans' Administration testified before the Senate Veterans Committee that there was no such duplication.

The administration has also said that it is better to provide funds directly to students. Yet the administration consistently opposes increases in the GI bill.

The administration states that HEW special programs for disadvantaged students reaches veterans. Yet the administration also resisted requests to modify such programs to serve veterans. Significant funds were made available to veterans only after the Senate specifically earmarked funds for a special upward bound for veterans program to provide remedial courses to veterans.

Mr. President, I sought in 1974 and 1975 to increase funding for VCOI and was partially successful.

The funding level for 1975 and 1976 for for this important program has remained constant at $23.7 million. This is not budget-busting and it is not fiscal irresponsibility.

It is a rational response to a severe unemployment problem among the Nation's veterans; it is a fair and cost-effective means for repaying the debt which we owe to veterans, particularly our youngest veterans.

I urge the Congress not to approve the rescision.

PACEM IN TERRIS IV—AMBASSADOR MOYNIHAN

Mr. JAVITS. Mr. President, on December 2, I participated in Pacem in Terris Convocation IV at the Sheraton Park Hotel in Washington as a member of the panel on détente. On that day, our distinguished Ambassador to the United Nations, Daniel Patrick Moynihan, in his own inimitable style delivered a most interesting speech on the ideological implications of détente.

There exists even in the United States a wide divergence of opinion on the nexus of issues that generally are subsumed in the term "détente." An imperative for formulating a sound foreign policy must be the articulation of these sentiments in the expectation that out of the form of these differences will emerge the wisest approach to these international relations. In this respect, I believe that Ambassador Moynihan has presented an incisive and stimulating presentation of the parameters of détente as he sees them.

I ask unanimous consent that the address of Ambassador Moynihan be printed in the RECORD.

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

ADDRESS BY AMBASSADOR DANIEL P. MOYNIHAN

Pacem in Terris made its appearance in Easter Week of 1963 and attracted some attention, for it was clearly addressed beyond the limits of the Roman Catholic community to the world at large, and in terms and by a man of spaciousness and perceptible authority. In the United States the impact of the encyclical was enhanced by the fact of its having appeared during the incumbency of our first Catholic President and during the majority, if you will, of a generation of American Catholics for whom papal encyclicals did directly influence views on public affairs and, for those in public life, influenced conduct as well. We were—if a brief parochialism may intrude here—between the generation of Catholics such as Al Smith, who once asked Robert Moses what in the hell a papal encyclical was, and the generation now coming along which shows every disposition to wonder why anyone bothers to issue them. It was, in any event, an unaccustomed, even a heady experience. In the United States political liberals, who were by then reasonably well disposed towards President Kennedy, and were themselves rather enjoying the experience of being somewhat less ill disposed towards Rome, showed some enthusiasm for this evidence that the Pope was a liberal, too. I was then an Assistant Secretary of Labor and was at some pains to assure the Harvard graduates in the administration and the press that the Holy Father was indeed in favor of the minimum wage. Being so heavily Catholic, the AFL–CIO was not accustomed to paying much heed to what the papacy thought about working conditions, but the Harvards appeared to be impressed. Among the laity there was even, I think, some elucidation. For generations they had been beset by aged Irishmen, doing their best, who from drear episcopal studies in 19th-century slums had been sending forth diocesan letters denouncing "liberalism", by which term they intended the Manchester school of economics, but which the Democratic faithful assumed to mean the New Deal and its forebears. Earlier encyclicals, even Quadragesimo Anno, presented themselves to a Catholic community in America that was but little trained to serious social analysis, and still less accustomed to having its views in such matters taken seriously. In this respect, as in so many others, Pope John appeared at the propitious moment: confidence had risen; suspicion had declined. Thereafter the "native" political liberalism of American Catholics was much more at ease with, and even, I think, reinforced by what was clearly seen as Church doctrine.

This was all other sectarian, however, Nothing, or next to nothing in the large was affected. Catholic social thinking had never theretofore had any serious influence on American public policy, whether in domestic or foreign affairs, and Pacem in Terris had none either. Thus, as he had done in Mater et Magistra, John in this encyclical most emphatically restated the principle of subsidiarity, first enunciated by Pius XI in Quadragesimo Anno, a proposition with doctrinal roots going as far back as Aquinas. This principle states as a "fixed and unchangeable rule" that "one should not withdraw from individuals and commit to the community what they can accomplish by their own enterprise and industry", and further that it is an "injustice," indeed a "grave evil and a disturbance of right order, to transfer to the larger and higher collectivity functions which can be performed and provided for by lesser and subordinate bodies." Now a century earlier—just to keep matters complicated—such papal doctrine would have been seen as the embodiment of liberal principle! But by 1963 this was no longer so. To the contrary, American liberalism was at that very moment about to enter a period of unprecedented attachment to whatever it is that is the opposite of the principle of subsidiarity. The state was encouraged to take over more and more individual functions, and the highest levels of the state were encouraged to take over more and more of the functions of the "lesser and subordinate" levels. There is every sign that American liberalism is just now coming out of this phase, and may indeed be adopting a principle of subsidiarity of its own, but in neither situation does Pacem in Terris appear to have had any influence.

What is noteworthy, however, is that the encyclical continues to enjoy quite a vigorous life. If it has had little or no influence on social policy, it appears mirabile dictu, to have had and to be having considerable influence in the less accessible realms of American political thought.

Indeed, although the notion verges on the bizarre, it is the case nevertheless that this papal encyclical seems altogether an appropriate subject for study during this coming bicentennial year, a tract indeed to be studied as if it were a contemporary statement of views wholly congruent with and reminiscent of those of the Founding Fathers themselves. There is no mystery to this. The authors of the founding documents of the American republic and of this Roman Catholic discourse were both adherents to the Natural Law School of philosophy, and constituted their respective regimes, the one real and the other ideal, in just those terms. Pacem in Terris bears rereading. It is more Greek than Hebraic in tone, heavily indebted to Neo-Platonist doctrine, and openly acknowledging of this debt.

"For, as Lactantius so clearly taught . . ."

It has surely been some time since American statesmen could be depended upon to be quite certain as to just who Lactantius was, much less what it was he taught so clearly. But we would not be surprised to learn that some at least of the Founding Fathers were. This third-century apologist was one of those, who with Augustine, preserved the doctrine of natural law and helped incorporate it into Catholic teaching. Given some confusion on the subject, it is nonetheless clear enough that Lactantius stands in that company of Church fathers, and in point of time first among them, to assert that the state is a product of a social contract or convention among men for the repression of certain evils, which is to say that the individual exists prior to the state and owes his first allegiance not to the state but to God. The great question—always—of political philosophy concerns the nature of the individual and the claims which the state may make on the individual. The drafters of the American constitution and of Pacem in Terris both insisted that the individual was divine and the claims the state may make upon him are both strictly limited and conditional on the behavior of the state itself. To assert this may be nothing exceptional, but to conclude it, as the issue of a detailed and coherent account of the nature of man and of his world, sets these men apart from most men at all times, and most particularly, most men in these times.

It is for just this reason, is it not, that we find ourselves drawn to such coherent and comprehensive statements as we try to deal with issues of foreign policy in our time, issues which have assumed such a cosmic quality. The reason for this is known to everyone, and quite clearly stated in Pacem in Terris itself, in a section headed, with what caprice one dares not speculate, "Signs of the Times":

"Men are becoming more and more convinced that disputes which arise between states should not be resolved by recourse to arms, but rather by negotiations.

"It is true that on historical grounds this conviction is based chiefly on the terrible destructive force of modern arms; and it is nourished by the horror aroused in the mind by the very thought of the cruel destruction and the immense suffering which the use of those armaments would bring to the human family. . . ."

In the atomic era, the encyclical concluded, war could never be just and ought to be unthinkable.

Now it is the historic fact that two American statesmen—one hopes we are not so lost in the Orwellian fog that it is no longer permissible to mention both their names—Richard Nixon and Henry A. Kissinger, saw this situation for what it is, seized the moment, and with competence and courage engaged our great nuclear adversary, the Soviet Union, in a dialogue from which emerged the compelling and mutually shared conviction that unless the nuclear arms race were ended, mankind was doomed. And so they set about to end it, commencing the process which we know as *détente*. As an act of statecraft, it has not had its equal in our time. It is little wonder that we are only slowly growing accustomed to the new circumstances in which the world lives in the aftermath; that we are finding the adjustment difficult; and are poorly concerned as to whether we have got the hang of it.

The first fact of *détente* is that it is not a condition, such as peace or war, but a process that can lead away from or toward either accordingly as we successfully manage the process—or fail to do so. The process arises from the simultaneous necessity to deal with two nominally incompatible imperatives. The first is the technological imperative, which commands that we cooperate as with a partner; the other is the ideological imperative that commands that we compete, as with an adversary.

Now a fleeting acquaintance with sociobiology—with the argument of Edward O. Wilson, for instance—suggests that this combination is not at all unnatural, indeed that all manner of species manage something of the sort. But it is troubling to men because of our poor efforts to get things straight in our minds, which for most of us comes down to trying to be consistent. *Détente* demands inconsistency. Inconsistency of the highest order of constancy. Clearly it is going to make demands on us of an unusual order.

And yet of an order not inaccessible to analysis, even of a certain clarity. The technological imperative is easy enough to grasp: A generation is coming of age in America which has known it since birth. So, equally, is the ideological imperative to those who will grasp it. Detente is a word we use to describe an approach to nations who are not friends, whose governments are based on principles different from ours, whom we are not sure we can trust and who have great military power which they have shown an inclination to use to the detriment of freedom. This is something we have understood in the past—the essential antagonism of the Communist system to ours—and most of us in truth still do understand it. Our problem has to do with continuing to understand that this is not just a fact, but a salient fact, one from which an imperative arises every bit as compelling as that which arises from the facts of nuclear armament.

Why is this difficult?

It has not helped that we picked the wrong word to describe the present process. Detente is a French word—perhaps the cause of precision would have been better served had we chosen something from the German!—which means, first relaxation of tension, as with physical objects like muscles. Now such wholesale relaxation is exactly what will not happen under detente. To the contrary, political detente can at most lead to a redistribution of tension from the technological sector to the ideological one, such that there will be a pronounced increase in the latter.

It is probably not a good thing to rely heavily on mechanistic analogues for human behavior, but in this instance it seems justified. The Communist system contains a certan amount of energy, capable of doing work. Any lessened expenditure of energy on military technology will lead to an increased expenditure on what the Communists will see as the equally inviting, equally productive area of ideological conflict. The relaxation of tensions in one sector will lead more or less automatically to more intense conflict in the other. That is what detente means. To question, to repeat, is why we find this difficult to grasp.

It helps to note that the Soviets have had no such difficulty. It is fairly clear that ideological conflict has been stepped up on their side, or at very least expanded to new areas. With the fall of Southeast Asia, the perimeter of pressure in that region is much expanded, with results already evident. Where necessary, military force is used. At this moment, for example, the Soviets in effect have landed Cuban troops, but Soviet withal—on the Southwest coast of Africa, even as they are consolidating military facilities on the Northeast coast of that continent. It is fair to assume they mean to colonize Africa, and manifest that they are already partially successful, their main problem being opposition from another Communist power and also from the fact that the United States will call them in instances of open military operations, as indeed the Secretary of State has done.

Blocked at one point, they shift to another. The United Nations offers near limitless opportunities in this respect. Last month, in an infamous act, the General Assembly declared that "Zionism is a form of racism. . . ." This was seen as an Arab initiative, but was it? The Ukraine, for one, was a sponsor of the resolution, which directly served an announced Soviet cause. Four years ago Pravda published—and indeed The New York Times reported it on February 19, 1971—a two-part article "Anti-Sovietism is the Profession of the Zionists" accusing Jews of all manner of plots against Communism, much as Hitler had accused them of plots in support of it. A campaign was begun which explicitly and heavily stressed the Zazi-Zionist theme. Its unmistakable intent was revealed by such grotesque things as a television documentary that superimposed Ben-Gurion's face on that of Hitler. And so it is indeed no accident that two days after the Zionism resolution passed the Gen-

eral Assembly this year a Tass political observer wrote:

. . . . Zionism is racism pure and simple of the same (variety) that was practiced in the not too distant past by Hitler's Germany.

This was all one campaign, serving the Soviet need to deal with what is one day going to be its central political problem—or may already be—that of ethnic conflict, and also serving its general aims in the Middle East. It is a daily occurrence in Turtle Bay, as elsewhere in the world.

Now there is nothing devious in this. The Soviet leaders have repeatedly stated that détente does not mean an end to ideological competition. They have not perhaps stressed that it means an increase, but surely that is something for us to perceive, not for them to proclaim.

Once again, why do we have such difficulty? I will suggest three clusters of influence, ranging from the temporary to the persisting.

The first, and temporary, condition arises from what I have elsewhere called a failure of nerve within the American elites that controlled and directed foreign policy in the postwar period. In 1963, the year Pacem in Terris appeared, was crucial in this regard: It was the year the commitment to Vietnam became, if not irreversible, then at all events one which was never reversed until failure was both inevitable and visible.

Now this sort of thing happens. Nations lose wars, and there are almost always consequences that are not so much political in nature as social. This is to say a class, or even a caste, is defeated in the process. Something of this sort has happened. The Vietnam war was quintessentially an elite decision, made by a confident, essentially coherent, and to that point undefeated foreign policy establishment.

Then it was defeated.

The results were curiously unnerving. There was an immense effort to transfer blame. One recalls the spring of 1970, when the tensions between supporters and opponents of the war led some of this elite to hint broadly that the continuation of the doomed enterprise in Asia was a scheme to use the Catholic working class to bring about fascism.

This didn't work, and even if it had, the elites involved found themselves assaulted from within. Not to put too fine a point on it, their children would not fight in their war. Before it was over, the R.O.T.C. building at Harvard had been converted to a day care center. Worse, a singularly derelict day care center. Almost a forlorn day care center, as if fecundity itself had been discredited, and shame was everywhere. Saul Bellow was quick to see it, which is what novelists are for: to know things before they are known. Mr. Sammler saw well enough in New York City an elite that would not defend itself.

Time heals such hurts. Time and the circulation of elites of which Pareto wrote. What it means for the moment however, is that in the area of ideological encounter our responses are much slowed. Where we had been quick to sense danger—even, sometimes, quick to perceive opportunity—we are now slow to do so. Events have to penetrate much deeper into the political and bureaucratic system in order to evoke a response. There has been a decline in authority. Students of public administration delight to tell the story of a Congressional hearing during World War II in which the then war production chief, a Detroit executive, was asked why he thought a certain proposal he had made would work, to which the executive replied that the General Motors Corporation paid him $200,000 a year to know when something would work, and when it would not. That kind of authority is gone. The committees, in the general sense and I need hardly note the specific ones, require lengthy justification, and are slow to give consent. Hence, in this temporary sense, the Soviets have an advantage and *detente* has difficulties.

An intermediate cluster of influences which retard our responses to communist aggression may be simply stated as the superior capacity of Marxist argument to induce guilt. Observe that this is stated as a relative relationship. Liberal democracy makes great claims on nonliberal societies, and has done so for some time. There is probably not now in the whole of the world a totalitarian state which does not have a constitution guaranteeing individual liberties. On the other hand, there is not a liberal society which does not contain a real Marxist or neo-Marxist movement dedicated to its overthrow on grounds of insufficient liberality. Nor is there any liberal society which is not torn by doubts on this score. Yeats sensed the mood:

Come fix upon me that accusing eye.
I thirst for accusation. . . .

It is said that if a Communist regime were to take over in the Sahara there would in time be a shortage of sand, and we shall doubtless in time have tested that hypothesis, but we can be fairly confident that to the very end there would be those in the West convinced that the sand had gone to build swimming pools for the rich—in the West. The Communist Manifesto is heavy with such accusation—interpolated between Marx and Engels' insistent analysis of the creative dynamics of capitalism—and its force provide the true dynamics of the doctrine. It is for a master such as John Dollard to delineate the role of guilt in liberal society—it is what makes us most humane as well as, at times, a bit absurd—but none can doubt that it is a weapon used against us by our adversaries.

More specifically, it is a weapon which our adversaries contrive to have us use against ourselves. This technique was much in evidence not long ago at the United Nations when, on the 30th anniversary of the U.N. and in a moment of relative peace in the world, the United States introduced a resolution—which had been readied a month earlier—calling for a general amnesty for political prisoners. Now if there is one thing Communism has brought to human experience, it is the phenomenon of political prisoners on a social scale: not just individuals but masses. The Soviets know their interests in such matters. Tass immediately denounced the measure as an "unsavory strategem" to distract attention—truly—from the anti-Zionist resolution passed two days earlier. The first American press accounts written in New York took a different line, *to wit*, that the resolution had been introduced in retaliation for the anti-Zionist resolution; but the general effect of such accounts, in this country and others, was to district attention from the measure we had proposed to the question of what motives we had in so doing. A classic mechanism for inducing guilt. Soon American commentators all but apologized for what we had done. The general drift of the critique was encapsulated from Scarsdale by a man who for fifteen years served as vice president of the Center for the Study of Democratic Institutions. In the words of this worthy, presumably now much versed in the ways of democracy, we were able—

. . . "Without a blush, to present a resolution urging amnesty for political prisoners in other countries while overlooking our own country's inability to behave generously to our political prisoners. . . ."

One need not go on.

No forgiveness; no redemption. John XXIII took the name of a disgraced antipope, and resumed the Johanine tradition. Not so the guilt ridden American.

This guilt is most difficult to handle just now in our relations with the post-colonial nations. We begin with the assumption of exploitation, a burden of guilt, the final burden of colonialism, which we evidently assumed when we took on "the leadership of the free world," as the phrase once went. Which is not to say there was no exploitation: There was the unforgivable humiliation of peoples the world over. The point here has to do only with the impact of these events on the American conscience, generations later and vast distances from events which Americans were scarcely aware of and only in the most peripheral way involved in at the time. But more recently—and I would venture more important—there has been the more complex phenomenon of the steady falling away from politically liberal norms and the gradual establishment of leftist regimes in the formerly democratic post-colonial states. This has been a great disappointment to the West, and the disappointment is now almost final. Speaking somewhat beyond the evidence, I would suggest that our emergent reaction is one of questioning *where we went wrong, where we failed.* Did we not for example, give enough aid. Hence the more demanding the claims made upon us by the new nations, the more support such claims gather from some, at least.

I would not wish to be seen as explaining all of this response—or all of that part of it which seems to me uncalled for and unhelpful, in contrast to a decent and constructive concern to help others. I am, however, prepared to ask whether some part of it is not based on fear—the fear, again among western elites—that comes of seeing the vast multitudes of the world nominally turned against us. Now the fact of the matter is that most of the new nations have opted for the regimes we now see in those areas *not* from egalitarian urges, but from the very opposite. In almost every nation, a post-independence generation has come to power, and within that generation a more or less small elite which—and why should this surprise us—finds in leftist, statist doctrine an excuse for gathering all power to itself, an excuse which cannot be found in democratic doctrine. Ergo. There is no nation so poor it cannot afford free speech, but there are few elites which will put up with the bother of it. A few days ago an enormous building was opened opposite the United Nations, constructed by a public-spirited group to provide offices for various United Nations campaigns for economic development and like enterprises, and also containing a hotel where UN delegates might conveniently stay. The daily cost of the cheapest room in this hotel is about the equivalent of the anual per capita income of an Indian peasant. But what does that matter? At the opening ceremonies a brochure was distributed for the new hostelry. The cover described it simply as: New York City's Newest Refuge for the Privileged. Now guilt can be induced by all this—and also fear. (It is altogether worth asking how much our present discomfiture arises from the psychological mechanism of identification with the aggressor.)

To state again, there is an element of guilt in our relations with many of the newly leftist nations in the world, which is not to be accounted for by older concerns. (Further evidence: observe our disinclination to acknowledge what these new nations have become.) Part of it may be accounted for by the continuing success of Marxist doctrine in inducing guilt in the West, part by a separate but related sublimation of aggression. Neither of these phenomena is likely to fade rapidly, but on the other hand, if we observe that Soviet society commanded unreasoning, irrational sympathies only for

about two generations, we may reasonably assume that our present difficulties in dealing openly with the newer nations will not last much longer than that.

Of the third cluster of influences, I have written elsewhere, and need not dwell upon at length. This is the long term ideological drift away from liberal democracy, the influence of which, I have argued, crested in 1919, at the end of the First World War, and has declined ever since. In a lecture given at that worthy Jesuit institution the University of Detroit, just weeks before the appearance of *Pacem in Terris*, Leo Strauss, the foremost political philosopher of his time in America, spoke more generally of the failure of what he called "the Modern Project." This was a world system that grew out of the political philosophies of the 16th and 17th centuries and which in, say, 1914, seemed well on the way to triumph. The West, at this time, was certain of its purpose, a "purpose in which all men could be united." It had a clear vision of its future "as the future of mankind." It was not less certain of its power. At that time, Strauss observes, this country, Britain, and Germany, if united, could have had their way, without force, in any region of the world. All went well, or well enough, for a bit thereafter, until Communism, which had been seen as a parallel movement to the modern project—part of it really, "a somewhat impatient, wild, wayward twin"—revealed itself, as Strauss puts it, to "even the meanest capacities" as something else, as Stalinism and post-Stalinism. Oriental despotism was once again a major force in the world; and finally, to cite Strauss, "The only restraint in which the West can put some confidence is the tyrant's fear of the West's immense military power." For the rest there is decline. Specifically, the purpose of a universal society, "a society consisting of equal nations, each consisting of free and equal men and women, with all these nations to be fully developed as regards their power of production, thanks to science"—that purpose is no longer sustainable. In its stead political society in the foreseeable future reverts to what it always has been, what Strauss called "particular" society—"society with frontiers, a closed society, concerned with self-improvement."

One must accept this as a long-term condition, but also see in it the essence of what might be our long-term security. For a particular society is a society that can be defended—and, I think, will be.

It comes to that. Out of the decline of the West there will, I sense, emerge a rise in spirits. We have shortened our lines. We are under attack. There is nothing in the least in the culture that suggests we will not in the end defend ourselves successfully.

We shall do so as we have in our armamentarium the incomparable weapon of liberty. We are the party of liberty, all of us. Republicans and Democrats, McCarthyites and Wallaceites, Mathiasands and Ampersands. Always have been, even when least true to it. And as the lights go out in the rest of the world, they shine all the brighter here. This requires discipline of ourselves,—by government and about government. But that is not beyond us. How do you suppose we have got to a bicentennial without knowing something of such matters? In the United Nations today, half the nations have had a violent internal change of government within the past eleven years. What it requires, most of all, is truth-telling: to one another, and to the rest of the world. We are not merely advised in this matter, to those who would lend some authority to Pacem in Terris, we are commanded:

> The first among the rules governing the relations between States is that of truth.

Already, we hear voices from the other world asking for truth. From us. About them. Most particularly, and most poignantly, we hear voices from the Soviet Union which ask no more than Pacem in Terris commands: that as between governments and their respective peoples "it is not fear which should reign but love. . . ."

That is our strength: that we can say this, and that the nations with which we are leagued can say it. Those who cannot say it must perforce hear it from us with ever mounting concern, a concern which they will attempt to allay by measures which will only enhance that concern.

Surely we must see this. Just as we must see the persistent attempt to dissuade us from speaking out for what it is: the assertion of their weakness and our strength. The night the American amnesty resolution was introduced, a German newspaperwoman called on me, an appointment made several weeks earlier. As we sat down she said, "Before beginning, let me just tell you that already the news of what the United States has proposed will be whispered from cell to cell in East German prisons. You would think such news would never reach such places, but it does and it is what keeps you alive. I know. I spent four years in one of them." On the heels of our initiative, one American commentator, having declared us unworthy to do anything decent gleefully predicted that our effort would be met with "a deadly silence." Which in retrospect might to many seem to be the case. But is it the case? Or is it only that we have not learned to hear the whispers?

Sursum Corda.

OVERREGULATION BY THE FEDERAL BUREAUCRACY

Mr. THURMOND. Mr. President, perhaps one of the most glaring examples of the smothering overregulation of the Federal bureaucracy is found at a small private college in southern Michigan. Indeed, this fine institution, Hillsdale College, has felt the administrative boot of big Government at its worst.

Throughout the history of Hillsdale College it has proudly maintained its independence, never receiving a dime in government aid from any level. It was founded more than 130 years ago by faithful Baptists who wanted to provide a religious oriented program of higher learning. The generations of Americans who have received their college education at Hillsdale have been the recipients of both academic and spiritual training of their choice. It was the type of education offered as the independent and free expression of the institution and was, in no way, geared to a consensus of thought or a Federal formula. It was their right under the American Constitution and had existed that way for Hillsdale since John Tyler was President of the United States.

Now, however, enters the Department of Health, Education, and Welfare. Ever zealous for more control over the institutions of our lives, HEW has stretched its web about as far as anyone can imagine to ensnarl this small college. While that vast bureaucratic empire has, for years, linked its controlling tentacles to the Federal dollars it dispenses for colleges and other institutions, it was thwarted in its move on strictly private campuses.

However, the bureaucratic mind of big Government planners is ever at work. Now HEW administrators have told Hillsdale officials, who have never taken the first Federal dollar, that their college will fall under the purview and control of HEW regulations if just one student on campus is receiving a Federal grant. Presumably, the same would apply to any other institution in America.

Mr. President, among 1,100 students now at Hillsdale, it would be unusual not to find a single student who has applied for and received some form of Federal assistance. Therefore, the Hillsdale edict by HEW has ominous tones for each person and each organization in America. The message to that small, independent college in southern Michigan is that there is no escape from bureaucratic control; there is no freedom from conformity and big Government.

The Founders of this great Nation who cherished freedom and restraint of Government would shudder at such intrusions into independence—and so do I. It seems that Americans are constantly being molded, regulated, directed, enjoined or administered into conformity with a Washington concept.

Mr. President, we must confront this insidious encroachment of "Big Government" which has been created right here in Congress. Both laws and appropriations have spilled forth from these Chambers which have created the bureaucracy and clothed it with its authority. Once loose, it tends to generate its own rules and formulas for overregulation. We must reverse this trend against freedom and restore the guarantees of independence and liberty which the Constitution enumerates so clearly.

Mr. President, as further explanation of the plight faced by Hillsdale College, and consequently, by every American, I ask unanimous consent that an article on this subject which appeared in Time magazine be printed in the RECORD.

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

THAT SUFFOCATING FEDERAL HELP

Never, since it was founded in 1844 by free-will Baptists, has fiercely independent Hillsdale College in southern Michigan accepted a cent from the federal, state or local government. This fall, nonetheless, the Department of Health, Education and Welfare informed Hillsdale that even if only one of the colleges 1,100 students receives a federal grant, the entire college is considered a "recipient institution." Hillsdale trustees were outraged; they called the federal regulations immoral and illegal" violations of the school's "inalienable rights of freedom," and announced that the college would try to find legal ways to resist. Hilldale President George Roche III also wants to ward off federal encroachment: "That's a Pandora's box we have no wish to open."

Hilldale's reaction is only one example of the growing resentment on campuses against a smothering blanket of complex and often impractical federal rules and regulations. They flow from a host of federal programs, ranging from environmental protection and unemployment insurance to affirmative action (which requires a college to prove that it is taking steps to eliminate discrimination on the basis of sex or race). Indeed, after a survey of affirmative-action programs at 132 schools, the Carnegie Council on Policy Studies in Higher Education declared that they are "confused, even chaotic," full of contradictory guidelines, and enforced by agencies that are often "feuding with each other." The federal regulations

have further threatened the survival of many colleges that are already in perilous financial condition; they simply cannot afford the paper work and restrictions that each new program entails. Some of the more onerous examples:

When Dartmouth recently decided to hire a new dean, it followed the federal regulations and advertised in national publications. The college was inundated by 500 applications; it had to set up evaluation committees and underwrite four trips across the country to interview candidates. The result: Dartmouth promoted its own dean of freshmen.

Last August HEW required the University of Washington to present statistical information about its 15,000 staff and faculty members in a new computerized format. The cost of complying with federal requirements in the past two years, says University Vice President Philip Cartwright, runs "into hundreds of thousands of dollars."

Jim Barratt, Oregon State's athletic director, was appalled by the red tape and "huge economic cost" of meeting new rules prohibiting sex discrimination. Barratt decided on a dramatic form of protest: he resigned. Ironically, he was a strong advocate of women's participation in sports.

Brigham Young University, a Mormon institution, has also challenged the legality of part of Title IX. President Dallin Oaks charges that the regulations prohibiting different rules for men and women "infringe on religious freedom and other constitutional rights." Brigham Young, he says, will continue to enforce its own rules on students' dress and appearance. (Women cannot wear jeans; men's hair must be cut neatly above the ears.) Says Oaks: "We believe that differences in dress and grooming of men and women are proper expressions of God-given difference in the sexes."

Still, many colleges might more willingly accept the growing federal presence if it were not so expensive. A study of six colleges by the American Council on Education has found that the cost of complying with federal programs has multiplied from ten to 20 times in the past decade. The costs at one medium-sized private college soared from $2,000 to $166,000; at a large public university, from $438,740 to $1.3 million.

PEACE ABROAD BEGINS WITH PEACE AT HOME

Mr. KENNEDY. Mr. President, as we seek new foreign policies for the United States, we are increasingly aware that many areas of our concern neither stop nor start at the water's edge. What we do at home and what we do abroad are linked closely together, calling for wisdom, leadership, and action that deal with many domestic and foreign problems together. This means that, to have a strong and effective foreign policy, we must also have a strong and effective domestic economy; inspired leadership to meet the problems of America as well as through affecting us abroad; a revitalization of our cities; security against the rising tide of crime; and continuing social development of our own people, in health, in education, and in all the other areas that help individuals lead secure and productive lives.

Few of our national leaders better understand that "peace abroad begins with peace at home" than Mayor Tom Bradley of Los Angeles. Last week, at the Pacem in Terris IV Convocation here in Washington, he outlined some of his basic views in this area, concluding that "it is up to those with faith in themselves to speak with a clear voice and to act with a strong heart and a clear conscience." This I believe Mayor Bradley does in his convocation address, and I ask unanimous consent that it be printed in the RECORD.

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

CONVOCATION ADDRESS BY TOM BRADLEY

When Pope John XXIII issued his mighty encyclical, Pacem in Terris, it was to become an historical document filled with optimism and opportunity for the world's people locked in prisons of suspicion and gloom. His simply written moral message produced rays of hope which helped thaw the Cold War mentality.

The fact that we are meeting at this convocation sponsored by the Fund for Peace and the Center for the Study of Democratic Institutions is high testimony to the lasting influence of Pope John's prescription for Peace on Earth.

We are meeting at a time when Beirut, Portugal and Northern Ireland are bloody battlefields of suffering and despair. Each is a dateline of useless death and destruction. Each is a reminder that we still haven't learned how to live at peace with one another.

In this country, we have our own battlefields: America's cities. In any one of thousands of cities and towns across this land, each day is a struggle for survival; each hour brings us closer to the brink. We only have to look at New York as a practical lesson. But it could be Boston or Cincinnati, Detroit or Dallas, San Francisco or my city, Los Angeles.

Uncertainty of direction in federal policies—policies governing economics, energy and spending, to name a few—has meant that America's cities are being asked to do more and more. But the simple truth is that we've been asked to attack the problems without enough strategic support, and casualties have been enormous.

We all know what they are: too few policemen on our streets, too few firemen, inadequate services, strikes and lockouts, haphazard education, debilitating unemployment and so on.

We who fight this battle daily have longed for peace and pleaded that this nation set straight its priorities. The war in Indo-China ended and we hoped that the billions which were spent in financing it would be shifted to plan for peace, to help with the domestic problems in the cities and towns across America. But, of course, there was no "peace dividend." A policy of increased military and foreign aid expenditures was perpetuated and the problems of inflation worsened.

Our cities have become the burden of a decade of preoccupation with Vietnam. And after Vietnam, Watergate and oil prices once more drew the nation's attention away from the plight of urban America.

It is in our cities where fiscal deficits force cutbacks of fire and police protection. It is in our cities where the lines of jobless workers stretch the longest. It is in our cities where families are desperate to flee apartments they share with rodents. And it is in our cities where hundreds of thousands of homes have already been abandoned.

The mayors of our cities—playing the role of domestic statesman or diplomats—are on the front line. We see the anger and the frustration. We face the legitimate demands for clean sidewalks, for streets where people can walk without fear, for schools, for jobs where men and women can earn decent wages and for a climate of progress that attracts rather than repels investments.

There is something wrong when pleas for emergency aid to cities do not bring response. There is something wrong when our vital requests are answered by White House vetoes. And there is something wrong when our voices do not produce a Congressional consensus to override those vetoes.

The federal government seems to understand inflation only when it comes to the defense budget.

But where is the same understanding when it comes to the need to provide services in our cities? Where is there a sense of understanding that the security of the people in Boston, Birmingham and Baltimore is not only determined by the magnitude of our missile and submarine power, but by the strength of our police and fire forces, by the quality of our schools and medical care, and by the adequacy of housing and employment?

If the federal government can keep pace with inflation for the defense department, then it can keep pace with inflation for the cities of America.

If the federal government can maintain the U.S. commitment to foreign defense budgets, then it can maintain a national commitment to social progress in our cities.

If the federal government can listen to the pleas of foreign heads of state and to our own generals and admirals, then it can listen to the pleas of its mayors and citizens.

We are making a grave error if we continue to allow our cities and towns to suffocate or stagnate while trying to cover all our bets in the international game of economic roulette.

Today, foreign policy goes far beyond the traditional bounds of strategic weapons, military alliances or economic expansion. Today, the substance of foreign policy is hardly distinguishable from what is called "political" policy, or perhaps more importantly, what has commonly been called "domestic" policy.

On the home front, we must come to recognize and deal with the intricate relationships which are becoming more and more complex. Such issues as oil, food, unemployment, abandoned central cities and the environment are so interrelated that they sometimes overwhelm us. Recent events have shown that trying to distinguish between them, or trying to deal with them as separate issues, is inconsistent with reality.

When American consumer interest in the price of bread or soybeans conflicts with this country's relations with Russia or Japan; when our Middle East policy raises imported oil prices from $7 billion in 1973 to $24 billion in 1974 or results in long lines at our gas stations; when the price of tuna on the west coast is tied to the actions of Peru or Ecuador, then the relation between foreign and domestic concerns is direct and difficult. This much is clear: international forces in today's world have a direct impact at the grocery store and on unemployment lines, whether they are in Detroit, Rome or elsewhere.

It is evident that foreign and domestic policies cannot operate in a vacuum. This country plainly does not have the wherewithal to be all things to all nations. And our priorities cannot relegate homegrown problems to second place. An indelible domestic element should become the foundation of our foreign policy, without abandoning our long-standing charitable tradition of sharing our wealth to provide humanitarian assistance where needed around the globe.

We must ask ourselves, then: How much military and foreign aid do we need and can we afford, consistent with our social obligations at home and security needs abroad? Many in the military and foreign policy establishments, concerned as they are with such things as the "balance of power" and

meeting "potential threats to our vital interests," seem to imply sometimes that all important factors affecting this nation's foreign policy emanate only from abroad.

Sometimes those establishments fail to take into serious account the necessary constraints imposed by the wishes of citizens in a democracy and the pressing needs at home, particularly in urban America.

There is a need, I believe, for fundamental change in developing policy to meet both domestic and foreign interests. The need for change is symbolized by the attitude of a national administration which leaves New York City teetering on the brink of bankruptcy one week, and in the next week announces its $4.7 billion foreign military and security assistance plan. Is this the new American way? Are we willing to abandon out own people while trying to buy the hearts and minds of others? I hope not.

I would oppose a return to isolationism as vigorously as I call for recognition of our domestic needs. The realities of our world dictate a life-line role for national interdependence and for reconciliation with old antagonists. The American people understand and accept the economic ties of the nations of the world, but they are increasingly calling for reordered priorities in a way that cannot be dismissed as a short-lived phenomenon in the wake of Vietnam.

What many want is a foreign policy which acknowledges not only the interdependence among nations, but also the interrelationship with local problems and economic cycles. They want a policy of friendship, built on trust and respect among nations, a policy which doesn't shift with every wind off the Syrian Desert.

Twelve years ago in his Pacem in Terris encyclical, Pope John admonished us to replace porous foundations "upon which our present peace depends." His wisdom shines even brighter today. It's time for America to look inward.

With due respect to our foreign obligations we must build a new structure of social justice to serve as a national policy framework for the cities and towns of this country. It should be a policy strong enough to overcome today's problems but flexible enough to meet tomorrow's challenges.

As for our short-term needs, permit me to take advantage of the holiday season and present you with a brief shopping list for a vigorous urban America.

First, we need a firm national policy of full employment. Programs to meet this commitment should include public service jobs, new housing construction, community redevelopment and special economic assistance for hard-pressed areas.

Next, we need to expand the general revenue sharing concept to allow for specialized aid where needs exist.

We need new methods for controlling crime and administering justice.

We need new and better transportation systems, with urban mass transit a primary goal.

And we need stability in the urban money markets. The uncertainty surrounding New York City's financial troubles has already cost other local governments untold millions of dollars in higher interest rates.

Beyond these immediate steps, I want to mention several propositions to reduce future shock.

For a number of years now, I have been interested in strengthening local economies so that they might withstand the trauma of change. My interest was kindled and kept ablaze because Southern California—particularly its aerospace, defense and auto industry—is especially susceptible to cyclical and structural recessions. In response to this, I proposed a few years ago the development of a Joint Economic Revitalization and Productivity Board.

This federally appointed local board would direct innovative pilot studies and recommend ways of revitalizing, diversifying and redirecting the economy to care for basic community needs. With a board comprised of local representatives of industry, labor and finance, people with first-hand knowledge and daily involvement would help put together programs which have practical application.

The potential of this kind of mechanism is boundless. Areas like Los Angeles or Detroit, which are dependent on recession-sensitive industry, are ideally suited to serve as prototypes for this kind of economic conversion. Investment in such areas would be minimal because of their high concentrations of facilities and skilled workers. Local reconversion efforts, focused on invigorating sluggish economies, are long overdue.

When this concept was first proposed, both the departments of labor and commerce expressed support, but rapid shifts of personnel here in Washington stymied final action. I trust its fate will be more positive this time. Though I wish the situation were different, there is no better time than now to formulate this kind of progressive action, with unemployment high and the economy strung out by inflation.

Another idea I would like to see promoted further is the concept of an urban recovery program; a Marshall Plan for the cities, if you will. Just as billions of dollars in postwar economic aid for Europe was spent in the two decades following World War II, the same sort of investment should now be made at home. The goal of such an ambitious program should be to recapture the attractive, healthy lifestyle which made this country thrive. To this end, urban recovery should become a high national priority.

We must act, and act swiftly and effectively in this recovery. If not out of humane motives, then out of real concern for the very survival of our institutions in the cities.

As a nation, we have to develop the capacity to manage our cities so that we don't forfeit the tremendous investments of time, money and energy in our great metropolitan areas. Restoring them, of course, is not a simple proposition. Years of neglect, waste and inaction cannot be swept away overnight. While it won't be easy, it is not an impossible dream. But we must begin now.

To be sure, our ability to solve urban problems depends greatly on our ability to wrestle with and overcome such problems as inflation, recession and crime. But perhaps the most difficult task before us—in promoting city living again as an attractive lifestyle—is the reshaping of the national psyche which developed during this country's years of affluence.

This nation's technology explosion during the 20th century produced better living standards for millions.

Along with our growing affluence, though, we developed a tendency to become a disposable society. We use something for a while and then simply toss it away. Every day we throw away untold thousands of disposable cans and bottles, disposable lighters, cameras and even disposable clothing and furniture. In our affluent, technological society, we have created the dubious art of producing something, using it up, throwing it away and simply replacing it.

This disposable trend is even reflected in a too common philosophy about our cities—particularly our central cities: Get out fast. Don't look back.

At the first sign of deterioration and blight, there is the tendency to pick up and move out, to run away instead of facing up to the challenge of rejuvenating, of restoring life to old, dying portions of American cities.

We must now frankly ask ourselves if it is in our best interests to continue the wasteful practice of quick use and rapid disposal. I, for one, am convinced that we cannot afford the luxury of throw-away cities any longer. We cannot afford to turn our backs on our gasping cities and run to the nearest suburbs.

Reversing this trend, bringing about a change in this throw-away cities philosophy is the key, I believe, to the salvation of the American metropolis. And by salvaging cities, we will at the same time take a giant step towards regaining some all-around national stability.

Government's inability—at all levels—to address key national issues such as I have mentioned fosters a lack of overall public confidence, a decline in optimism about the future and even a drop in aspirations. I am sure this attitude has had an impact on the economy and on how government is perceived abroad and here at home.

Americans are not necessarily asking that government do more for them. Rather, they are saying that government should show them what to expect next, what to plan for, how to channel their individual energies for the national good. Foresight is the key ingredient they seek from leadership—that, and the honesty to admit the truth when predictions go sour.

Certainly the performance of government leadership is vital to a democracy's ability to withstand accelerating, bewildering, unnerving change, particularly when the belief in progress for its own sake becomes another casualty of our crowded, diverse existence. It is this failure of government to perform the vital role of conducting an educational dialogue that makes the choices unclear and the future incomprehensible, particularly in dealing with the impact of our foreign policy decisions on our economy. This is what we now see reflected in the crisis of confidence.

No single law or leader, no simple slogan or dramatic act can, by itself, renew the loss of trust. But a concerned, continuing effort by government at all levels to explain the complexities of policy, to bring the people into the process of evaluating alternatives, to admit indecision when evidence is inconclusive, to promise only what can realistically be expected is the only way to revitalize the democratic system and restore the public's confidence.

As we move into the third century of this republic, I believe this nation must return to its founding tradition of dialectic democracy; a democracy where action is determined by forthright discussion and the synthesis of ideas.

So now we face tomorrow. And it is up to those with faith in themselves to speak with a clear voice and to act with a strong heart and a clear conscience. It is up to all of us to serve this present age well so that the crises which confuse our future become converted into clear options from which we can choose our tomorrow: a day of renewed hope, a day of truth and sincerity, a day of freedom and justice for all and a day of peace, within ourselves and with others.

THE UNITED NATIONS AFTER 30 YEARS

Mr. CLARK. Mr. President, some of the serious and deplorable posturing by Third World countries in the United Nations General Assembly has caused many Americans to ask fundamental questions about the U.S. role in the U.N. I certainly share their concern about the direction the Assembly has taken recently on Middle East questions. The absurd equation of Zionism with racism and the unseemly embrace of the Palestine Liberation Organization deserve the condemnation they have received in this country.

But I am also deeply troubled that, in our anger over such actions, we may lose our perspective about the United Nations. Resolutions of the General Assembly are not binding on members. They are simply a reflection of the views of the members. So, in a sense, many of the most annoying noises coming out of the U.N. are empty, though by no means always harmless. Even when we disagree radically with what the governments of the world are saying, it is important that we hear them.

The United States, of course, has a veto in the Security Council, where operative decisions are made. While I strongly hope that the United States does not fall into the practice of excessive use of the veto, it is there, and should be used in emergencies. Our veto of the resolution condemning Israeli violence is a case in point. Indeed, we should condemn such violence as the recent Israeli raid in which 100 lives were taken. But we cannot be a party to a double standard. The United Nations cannot condemn violence by Israel, while failing to condemn like actions of other countries. The unwillingness of other members of the Council to accept this justifies our veto of this one-sided resolution.

But quite apart from these considerations, we must not lose sight of the value of the U.N. to us and to the entire world. Despite its failures, we must look at the extremely important role it has played in ameliorating the world's problems. The situation in the Middle East would have been bloodier by far over the past quarter century had it not been for the continuing role of the U.N. in keeping the peace. And in the world's struggles against hunger, disease, pollution overpopulation and many other global problems, the U.N. has a role which cannot be played by a less-than-global body.

Mr. Benjamin M. Becker, a prominent Chicago lawyer and expert on international organizations, has made an important analysis of the pros and cons of the U.N., and I ask unanimous consent that his thoughtful article, "The United Nations after 30 years," which appeared in the November, 1975, issue of the Bulletin of Atomic Scientists, be printed in the RECORD.

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

THE UNITED NATIONS AFTER 30 YEARS
(By Benjamin M. Becker)

During the last days of the 29th session of the U.N. General Assembly, the U.S. Ambassador to the United Nations, John Scali, warned the General Assembly that the United States is deeply disturbed by actions of the world body and that U.S. support is eroding; that the unrealistic resolutions passed by the United Nations had become a "clear and present danger" to its usefulness; that "if the United Nations ceases to work for the benefit of all its members, it will become increasingly irrelevant. It will fade into the shadow world of rhetoric, abandoning its important role in the real world of negotiation and compromise"; that "they [Americans] are concerned by moves to convert humanitarian and cultural programs into tools of political reprisal," and that neither the American people nor the U.S. Congress believe that such actions can be reconciled with the spirit or letter of the U.N. Charter.

When the Arabs threatened to use their bloc power in the General Assembly in June 1975 to unseat and expel the State of Israel, it was reported that if this should come to pass it might bring about a walkout by the United States, and probably cause the U.S. Congress to cut contributions to the United Nations. More recently, practically on the eve of the opening of the 30th session of the United Nations, Secretary of State Henry Kissinger re-emphasized the disenchantment of the U.S. government and the American people with the United Nations. He stated, "If the United Nations begins to depart from its Charter, where suspension and expulsion are clearly specified prerogatives of the Security Council, we fear for the integrity and the survival of the General Assembly itself and no less for that of the specialized agencies." He concluded that "the future of the United Nations is clouded."

As Irving Kristol has observed, "An almost infinite number of other legalistic absurdities can be found in the shelf-full of U.N. resolutions—on 'human rights,' 'self determination,' 'the abolition of poverty and hunger,' etc., etc.—we have automatically and unthinkingly subscribed to. Other nations, of course, pay no attention to them and never had any intent to do so. We, in contrast, are very solemn about them and are constantly exposing ourselves to—indeed, are constantly encouraging—a barrage of criticism and self-criticism." (Commetary, July 1975, p. 54.)

It is thus appropriate for Americans and the U.S. Congress to take a look at the United Nations today. A few years ago I took a look and wrote a book entitled Is the United Nations Dead? It considered then whether or not continued American support of the United Nations was warranted, despite its failures and our general disenchantment. The conclusion was reached that despite its ineptness the United Nations was the only nearly universal international organization which could possibly someday provide the framework for international cooperation to tackle many of the pressing global problems which faced all of humanity; that U.N. participation in ceasefire and peacekeeping operations in the Mideast and elsewhere and its extensive work in the social and economic field were sufficient justification for continued U.S. support.

Much has happened since that book was published, however. China was substituted for Taiwan as a member. Many more nations have been admitted. The membership grew from 111 to 138 at the last count. The United Nations has involved itself in many more areas of economic concern to member nations. The United States has lost influence among member states and began to use its veto in the Security Council. The Afro-Asian-Arab-communist bloc has developed an overwhelming majority in the General Assembly.

On the positive side, thrice in the past three years the United Nations has been called upon to supervise cease-fires and keep the peace, twice in the Mideast and once in Cyprus. It appeared as if the United Nations had come alive.

But nothing in recent years has so greatly diminished the United Nations in the view of many people as some totally irresponsible actions taken in the last two months of the 1974 session.

There was the General Assembly's invitation to the terrorist Palestine Liberation Organization leader Yasir Arafat to present his appeal to the General Assembly in New York. Arafat, with gun in holster, pleaded for the creation of a Palestinian state and to eliminate the State of Israel to which the United Nations had given birth some 26 years before. Arafat is the man who is the commander of Fatah-Black September group. He personally received $5 million from President Qaddafi of Libya as a price for the slaughter of Israeli sportsmen at the Olympic games. He personally directed the murder of diplomats in Khartum; and told the Italian weekly L'Europeo, "Our goal is the destruction of Israel. Peace for us means Israel's destruction, nothing else." Three of Arafat's guards in New York were the same men who had been involved in the killing of the three diplomats at Khartum, including one American. Yet, Arafat was received with resounding applause by the overwhelming majority of U.N. members.

This was the United Nations which for more than four years has failed to act to stop international terrorism. The invitation to Arafat was a craven surrender to political expediency of the worst kind, an acknowledgement that terrorism and violence was the road to international recognition. It was a surrender to barbarism. As the New York Times editorialized, "It is grim irony that virtually the same Assembly majority that suspended a founding member of the United Nations one day could on the next esthusiastically welcome the leader of a terrorist organization whose goal is the destruction of another state."

For the first time in its history, the U.N. General Assembly voted to gag a member nation (Israel), denying it the right to speak more than once during the heated debate on the Palestinian question, notwithstanding the fact that there were some 75 to 90 Arab, Third World and communist bloc nations ready to take the rostrum in opposition to Israel.

There was the arbitrary, capricious suspension of South Africa from the U.N. General Assembly. This was clearly illegal and a violation of the U.N. charter.

There was the attempt to oust the Cambodian government, headed by Marshall Lon Nol, and to replace it with the exile regime of Prince Norodom Sihanouk. It failed by the narrowest of margins.

The overwhelming General Assembly action against Israel after the debate on the Palestinian question was quickly followed by irresponsible actions against Israel by Unesco: the resolutions expressing hostility to Israel, which weakened her status in the agency; barring Israel from Unesco's European region without admitting her to any other regional grouping; cutting off Unesco's modest aid to Israel ($24,000 in 1973–1974 for cultural institutions), notwithstanding Israel's past contributions to Unesco, which in financial terms far exceed what Israel has received from Unesco; and inviting Unesco's new director general to supervise educational and cultural institutions in territories under Israeli occupation in cooperation with the Arab states concerned and with the Palestine Liberation Organization. In contrast, no action was taken against member nations who harbored hijackers, kidnappers, murderers and the like.

Once again the U.N. General Assembly voted to postpone debate on the problem of international terrorism until the following year. Israel was the only nation voting against the postponement.

On December 12, 1974, the General Assembly approved a highly controversial economic declaration called the "Charter of Economic Rights and Duties of States" by a vote of 120 to 6, with the United States, Britain, West Germany, Denmark, Belgium and Luxembourg voting against the charter. Under the declaration every nation would have full sovereignty over all its wealth, resources and economic activities, the right to regulate foreign investments in accordance with its laws and to supervise transnational corporations within its jurisdiction.

The basic objections to the new declaration involved the provisions permitting expropriation of foreign properties without guarantee of equitable compensation under international law. With the sanction of the seizure of property without any guarantee of compensation, as the Chicago Daily News

editorialized, "this could be construed as an open license to steal" and illustrated "the paucity of principle in the U.N. General Assembly."

NEW NATIONS DOMINATE

Small nations clearly now dominate the United Nations. When the United Nations was founded in 1945 there were 51 members, and now there are 138. The new members, who have emerged from colonial status since the end of World War II, now command the majority of votes and steer debate in areas of their interests. With the close of the 1974 session of the U.N. General Assembly it was clear that the United States had lost whatever influence it had. Appeal to reason fell on deaf ears.

Somewhat petulantly, on December 17, 1974, the United States decided to boycott a special fund set up by the United Nations to provide emergency relief and development aid to the countries hardest hit economically. The U.S. action was interpreted as a retaliation for the controversial action taken by the Arab, African, Asian and communist bloc nations in the United Nations.

The American people and the U.S. Congress now are faced squarely with the question of whether to continue their support of the United Naitons. The problem is not easily resolved. The United States contributed approximately one-third of the entire cost of the United Nations and its varied operations. Is it in the United States national interests to continue to support the United Nations?

It will take a largeness of perspective to recognize that the United Nations should continue to be supported and that the task of getting it to work effectively in accordance with charter principles is something that involves a longterm undertaking, continuing commitment and the utmost patience and fortitude.

Impartial critics recognize that it is not the structure of the United Nations, but the conduct of its members which is largely responsible for its failures in many areas. That aside, the United Nations has served well, considering the limitations imposed upon it by its members. To state the case very briefly, there is much that has been accomplished by the United Nations: There are the many U.N. supervised cease-fires and peacekeeping undertakings—in Korea, in the Mideast on numerous occasions, in Africa, and in Cyprus. There are the continuing day-to-day economic and social welfare programs and operations in underdeveloped nations. There is the continuing identification and study of potentially disastrous global problems, such as the population explosion, pollution of the environment, hunger and nuclear proliferation. There is the sponsorship of and planning for world conferences on the human environment (Stockholm), population (Bucharest), food (New York), hunger (Rome), law of the sea (Caracas), disarmament (Geneva), and narcotics control. And lastly, there is the continuing availability of the United Nations as a central place for international multipolar diplomacy and off-the-record discussions involving critical world problems.

To be sure, the United Nations may be short of definitive accomplishments in many areas. But it does serve important purposes.

Has the United Nations fallen so far short of the high and noble aspirations and hopes of its founders and supporters that it is time to call it quits and let it go the way of the League of Nations? As New York Times columnist William Safire notes: "This has not been [the recent actions on South Africa and the Mideast] a victory of the U.N.—rather, a victory over the U.N.—and the organization that could still be helpful in averting World War III has been made the breeding ground for the Third World's War."

Before we bury the United Nations, let us ask: What would be world do without the United Nations?

What would have happened on the outbreak of hostilities in Korea in 1950 without the U.N. participation? True, it involved minimal participation by nations other than the United States. But would it have meant United States entry into hostilities independently, perhaps another Vietnam?

What would have happened without the United Nations on the outbreak of hostilities in the Mideast in 1957, 1961, 1963, 1967, 1971 and 1973? Each of the principals had their patrons, the Soviet Union and the United States. What would have happened had hostilities continued without the intervention of the U.N. cease-fire and peacekeeping assistance? Certainly the cease-fires and peacekeeping were encouraged by the United States and the Russians; but the United Nations provided the format for easing the difficult step from active hostilities to cease-fire and peacekeeping.

The same questions may be posed in connection with Cyprus, Africa, and the India-Pakistan hostilities. What would we have done without the United Nations?

But there was a United Nations. There was a hastening to the United Nations to bring each crisis before the Security Council. Here was a ready-made international forum for the statement of positions by the combatants and their supporters, a place for giving vent to their feelings, and yet a central point for quick, but quiet, diplomacy and negotiations to move toward a cease-fire, and then to some reasonable posture of peace.

Here was an organization with experience in organizing and maintaining a cease-fire, as it had on other occasions in the Middle East and elsewhere. To be sure the United Nations could act only when the superpowers agreed, persuaded and pressured the combatants to agree. But the United Nations was there to follow through and implement such agreements. As at this writing U.N. peacekeeping forces are in place in the Mideast and in Cyprus.

GLOBAL PROBLEMS

But there are more compelling reasons for the existence of the United Nations and for strengthening it so that it can act more effectively. Apart from the danger of nuclear war and devastation, there are the rapidly worsening global problems which threaten all people and nations. These problems cannot and will not be solved by summitry, the balance of power approach, or tenuous detentes; but only by a global approach in the form of a strong international body which can act effectively. Appropriately strengthened and utilized the United Nations *can* be such an organization.

Most of the critical problems of our time are universal in character. No nation is immune from the disastrous effects of the failure to grapple with these world problems:

Radiation fallout from nuclear testing in any part of the world is of concern to all peoples and nations.

Hunger and impoverishment of more than half of the world's population is a matter of international concern. Revolution is born of desperation.

Disease has no national boundaries.

Pollution and despoliation of the environment is worldwide.

The economic interdependence of nations has been demonstrated time and time again. The weakness of the American dollar has its reverberations throughout the world. Monetary imbalances seriously affect the economies of all trading nations. The current oil crisis has worldwide repercussions and dramatically demonstrates the interdependence of nations.

Only with a common vision and purpose can nations even begin to attack problems with worldwide consequences. As the massive problems of environment and atmospheric pollution, exhaustion of natural resources, poverty and health are exacerbated and we come closer to the days of reckoning, there will be—and there is now—a growing realization of the need of a global and universal approach to the easing of these problems. Here is where the United Nations some day may be found to be indispensable as the only truly available universal organization—not perfect to be sure in its organization and operations, but yet the only truly global organization standing ready to tackle the monumental tasks facing humanity.

Imperfections in United Nations organization will become less important when world problems involving survival transcend national boundaries and nations are impelled to work together with a common purpose. Weak as it is now, the United Nations is doing what it can about these global problems. They have, as mentioned above, sponsored world conferences on population, pollution, and hunger. And in April 1974 there was the special session of the U.N. General Assembly on the subject of raw materials—another global emergency facing both poor and rich nations; and this also involved the existing and anticipated mass poverty in the underdeveloped and developing nations, the tragic consequences of the population explosion, the frighteningly low supply of food to feed the world population, the energy crisis, the massive military expenditures, and the worldwide inflation. U.N. Secretary-General Waldheim called it a "global emergency" of massive proportions.

Then, of the 135 member-nations, 96 were classified as developing countries which, in turn, encompassed 70 percent of the world's population. As U.N. Secretary-General Waldheim said, the problems

"affect the lives of virtually every man, woman, and child on Earth. It holds vast significance for future generations. It raises the fundamental question of the kind of world economic system and social order we wish to establish and live under. It challenges us to make a series of rational and agreed choices which may be decisive in determining the quality and condition of mankind's future life on the planet."

There is also the critical problem of a global approach to the task of eliminating the pollution of the world waterways and utilizing the seas as a source of food and raw materials. This involves 70 percent of the Earth's surface, and the utilization of the oceans as a source of food supply for the world population. The Caracas Law of the Sea Conference in 1974 made at least a start in tackling this difficult problem.

The universal urgency of solving, or at least easing, the pressing global problems may well transcend disagreements on nuclear arms control for at that point our very survival will be at stake. Sovereignty will need to bow to the primacy of survival. The past failures and ineptness of the United Nations may then be viewed as part of the growing-up process by which nations learn to work together in peaceful co-existence, striving cooperatively to survive. In the meantime, it behooves nations and leaders to strengthen the United Nations step by step for that day when its availability will be crucial—and that day is now.

It is reasonable to assume that at least in the foreseeable future there will be no definitive resolution of the basic ideological conflict and differences which now divide the world. Yet, it is equally reasonable to assume that the economic interdependence and the mutual interests of nations in solving and easing the crucial world problems will necessitate expanding areas of cooperation despite basic differences. There is evidence of this all around us.

It is a much different world in which we

live. Global problems require a global approach and a global approach involves effective international organization. And there is in existence today only one truly universal organization, the United Nations. As Richard J. Walton has noted, "It is easy to scorn the United Nations but can anyone suggest an alternative? Or imagine the world without it?"

What indeed will it take for the nations of the world to realize the potential of the United Nations? After 10 years, as the late U.N. Secretary-General, U Thant said,

"What is required, of course, is a common global ethic [which, of course, we do not have, except in time of catastrophe], which the human society as a whole wishes implemented. . . . When I am asked what I see as the key to a world order that is adequate to assure peace, justice, and progress . . . . the need for such a global ethic is always the first of three major considerations that come to my mind. The others are modifications of the notion of national sovereignty [hardly conceivable with the revival of nationalism among nations] and structural adjustments in the world organization [which none of the major powers would support]." (*World*, July 4, 1972, p. 38.)

But the situation is not without hope. There *is* a growing 'planetary awareness,' with the increasing concern about the common global problems of environment, poverty, health and nuclear war.

As the global approach to international problems is expanded, the United Nations conceivably can come into its own. In the meantime, the maintenance of even a teuous and relative peace and co-existence can give us time. Time is on the side of peace. And the United Nations, with its proven capacity to provide a forum for discussion of international controversy and its extensive experience in supervising cease-fires and peacekeeping can give us the time.

With or without major structural changes, again as U Thant has noted, "There is no alternative to the United Nations as the major focus for the building of a world order guaranteeing peace, justice and progress for all peoples." Going and looking to the United Nations may yet become a pattern of international life.

No, the United Nations is not dead! It is reborn with each major crisis. It deserves continued U.S. support.

As Secretary of State Kissinger spoke out on July 14, 1975, after reviewing the merits and demerits of the United Nations, "This, then, is the promise and the problem of the United Nations. We must insure that the promise prevails because the agenda we face makes the institution more necessary than ever before. The United Nations, first, faces continuing and increasing responsibilities in its mission, in the famous words of the U.N. Charter, 'to save succeeding generations from the scourges of war.'"

What will be needed to procure the enthusisastic and important support of the United Nations by the major powers? Perhaps, as former U.S. Senator J. William Fulbright recently noted, "A long period of trouble and education combined—getting into crises one after another."

But then it may be too late!

THREE OF FOUR IOWANS BACK A WOMAN PRESIDENT

Mr. CLARK. Mr. President, the Des Moines Register recently conducted an Iowa poll on the question of whether Iowans would support a woman candidate for the Presidency.

The results of the poll are encouraging, because they show Iowans to be very receptive to the idea of a woman running for President—77 percent say that, if their party nominated a woman they felt was qualified, they would vote for her.

Perhaps this poll will serve as an additional encouragement to women to seek this Nation's highest office. I wish them well.

I ask unanimous consent that the text of the December 12, 1975, Register story and poll be printed in the RECORD.

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

THREE OF FOUR IOWANS BACK WOMAN

Is the time ripe for a woman president? The vast majority of Iowans thinks so.

The Iowa Poll found that 77 per cent of Iowans would vote for a qualified woman for president if their political party nominated her. Only 17 per cent said they wouldn't and 6 per cent had no opinion.

"I don't discriminate," remarked Grand Mound farmer Harold Green, 47. "It wouldn't enter my thinking that she was a woman running against a man. But I wouldn't vote for her just because she was a woman, either."

Interestingly enough, men are 6 percentage points higher than women in their vote for a woman president, and city dwellers 16 percentage points more than rural residents.

Carla Holmes, 26, cashier at a Davenport lumber yard, said she would support a qualified woman candidate, "but I'm not sure there is one who is qualified right now."

Age is a factor in the poll taken Oct. 1–4, with support for a woman declining as the interview group's ages increased. Eighty-eight per cent of the 18–24-year-old group said they would back a woman while 65 per cent of those 65 and over said they would.

Politically, independents (83 per cent) and Democrats (80 per cent) surpassed Republicans (69 per cent) in the "yes" answer.

While he said he would vote for a "qualified" woman for president, State Senator Richard Norpel, a Bellevue Democrat, said he would not back "an equal rights radical."

"A radical would go too far to the left and create an imbalance, a situation favorable to women," he commented. "I think too many women are entering the work field now and are putting men out of work."

Would the country be governed better by women? Thirty-two per cent of Iowans think so, according to the Iowa Poll. Nineteen per cent say no, 39 per cent say there would be no difference and 10 per cent have no opinion.

John J. Waltz, 59, a Dubuque trucking contractor, said women "couldn't do any worse and might do better." Ron Sorenson, owner of a Des Moines cable radio station, said, "I think women are just as inclined to be as crooked or honest as men."

Remarked John Leary of Waterloo, a 41-year-old telephone repairman: "Women may be a little more honest than men, but they may not have the moxie for the job. They also could be a bit too sentimental or temperamental."

On the question of whether women could govern better or not, 35 per cent of women replied yes, compared to 29 per cent of men. Only 18 per cent on farms thought so, compared to 42 per cent in the cities.

Commented William E. Davis, 34, an attorney in Davenport (where the woman mayor was recently defeated): "I think women have a different viewpoint, and that is missing now in government."

IOWA POLL RESULTS (IOWANS WERE ASKED THE FOLLOWING OCT. 1–4)

[In percent]

	Total	Men	Women	Metro.	City/town	Farm
Question: If your party nominated a woman for president, would you vote for her if she were qualified for the job?						
Yes	77	80	74	84	75	68
No	17	14	20	11	19	24
No opinion	6	6	6	5	6	8
			By age—			
	18–24	25–34	35–49	50–64	65 and over	
Yes	88	85	79	71	65	
No	9	12	16	21	25	
No opinion	3	3	5	8	10	
	Total	Men	Women	Metro.	City/town	Farm
Question: Do you think the country would be governed better or governed worse if more women held political office?						
Governed better	32	29	35	42	33	18
Governed worse	19	15	23	12	21	20
No difference	39	46	33	39	35	51
No opinion	10	10	9	7	11	11
			By age—			
	18–24	25–34	35–49	50–64	65 and over	
Governed better	32	32	23	40	33	
Governed worse	16	15	21	18	23	
No difference	45	44	50	29	31	
No opinion	7	9	6	13	13	

Note: The Iowa Poll is based on 602 personal face-to-face in-home interviews with Iowans 18 yrs of age and older located in 106 sampling points throughout the State. A permanent staff of 68 independent interviewers follows a probability sampling method that eliminates interviewer's choice in selecting persons to be interviewed. The Iowa Poll was established in 1943 as a public service and is sponsored by the Des Moines Register and Tribune Co.

DEATH OF THORNTON WILDER

Mr. KENNEDY. Mr. President, the death of Thornton Wilder is a great loss to American letters. Few writers in American literature have written so well about the fundamental decency of the American character and the ordinary citizen's sense of individuality; few have stood so strongly against the contemporary cynicism and pessimism that threatens to erode these timeless values.

When Washington thinks of New Hampshire, it usually thinks of Presidential primaries. But I suspect that, for a large part of the rest of the Nation, when people think of New Hampshire, they think of Grover's Corners. Generations of American children have grown up on "Our Town" in their school productions and absorbed its eloquent message about the virtues of small town American life.

Of the many tributes to Thornton Wilder, what impresses me perhaps the most about them is the obvious affection and respect in which Mr. Wilder was held by those he touched. The vitality of his writing was exceeded only by his vitality in person, and his loss to American literature and life is all the greater.

Mr. President, I ask unanimous consent that a sample of recent columns by some of the Nation's most distinguished commentators, including Mary McGrory, Gilbert Harrison, Rod MacLeish, and Edwin M. Yoder, Jr., may be printed in the RECORD, along with Alden Whitman's obituary that appeared in the New York Times.

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

[From the Washington Star, Dec. 9, 1975]

GRACIOUS ENCOUNTER WITH WILDER RECALLED

(By Mary McGrory)

I once crossed the ocean with Thornton Wilder, which proves that Fortune, of whom he wrote so much, has her good side. The year was 1965, and the ship was the Leonardo da Vinci.

He was leaning against a grand piano in the deserted upper-deck nightclub bar. He looked around and I recognized him. I reminded him, a bit tremulously, that we had met the previous summer at a Washington dinner.

He plainly did not remember me, but he was gracious. He always came to that spot to see the last of New York, he said. He sailed to Europe every summer, preferably on the Italian Line. He liked best the South American run, because it was longer. Did I know the Donizetti? It had marble columns in the ballroom.

He looked like a prep-school headmaster, tweedy, square-jawed, with a neat moustache and eyes. Knowing he was beset by strangers, I awaited dismissal.

"I will call you on the telephone," he said, and departed.

Two days later I saw him again, lunching alone at a table for one. He had tried to call, he said, but the Italian telephone service, alas, was miserable at sea as on land. Perhaps we could meet for a drink?

When I arrived, he was deep in chat with the bartender, his Italian erratic as to verbs and gender, but fluent. All around were passengers dying to approach him. He greeted me with brisk courtliness, and I began to hear what sounded like conditions. I was to call him "Thorny." I must never try to reach him during the day. He wrote every morning from eight o'clock—the steward, trained to wordlessness, brought him coffee. He did his work—although he did not regard it as that—with an ancient fountain pen in a small, barely legible hand.

That understood, he began to talk. The talk poured out in an animated, effortless, glinting stream, running from Roman goddesses to American actresses, from Diana to Tallulah Bankhead, from Julius Caesar to Lyndon Johnson. He was a mimic, he was an actor, he could quote. He was pondering a theory that evolution applies to mind and spirit. "I scan the horizon for evidence," he said, with a sudden shift to irony. The name of Ruth Gordon recurred in the rich flow. She was a woman he admired, for her gifts, for her character.

He talked about everything under the sun, but himself. Of the dozens of plays, novels, short stories that had won him the world's acclaim and most of its prizes, only a single letter he thought worth mentioning.

Ruth Gordon's son, Jones Harris, had been mysteriously ill, facing exploratory surgery—and despondent. Wilder had reached into the depths and wrote him a letter about the worth and splendor of life. The young man had brightened.

"Imagine," he mused, the gray eyes looking for confirmation, "it seemed to make a difference."

He was generous, it seemed with everything but his time alone. He put off the celebrity-seekers with a hearty vagueness.

"I'm cheerful and chipper as long as I don't see too many people," he explained. "I fall philosophically ill at loquacious congeries."

But I made bold to ask him to dine out one night. One of my table-mates, whose name was Ruth, was celebrating her birthday. Ruth was born blind, but she was a merry soul, full of music and laughter. Her husband, Larry, was a theatre buff, I told Thorny. He accepted and we paid a ceremonial visit to the ship's store, where he bought a present, Chanel No. 5—"always acceptable, my dear."

The birthday party was a winged occasion. Thorny was at his most genial and Ruth was in transports. The moment came for the toast, and we looked to him. He saluted Ruth, and then recited the last lines of "Our Town," ending with "Eleven o'clock in Grover's Corners—you get a good rest, too. Good night."

Table 167 fell apart. The waiters, who were enchanted by "il grande scrittore Americano," applauded through their tears.

We repaired to the night-club. Ruth sang "Parlez-moi d'amour" and Thorny beseeched her to study Germain lieder. Thorny was at home in the nightclub. He went there every night for his "sleeping pill"—three bourbons. Although he loved Mozart, he politely applauded every rackety selection from the band. He called the piano-player "maestro."

The feast, for me, ended in Genoa, where I debarked. Thorny was headed for Cannes, his destination Davos and the first snow—"it's magical, the recovery of lost innocence, my dear." He escorted me to the train, bought me chocolates and magazines. He installed me in my compartment and doffed his battered grey felt hat.

"Buon viaggio," he said. "Be happy."

I never saw him again, although we corresponded for a while. I winced when I heard of his death. I read his obituaries, the lists of novels and plays and honors, and I remember his golden heart and his golden talk. I think of "Heraclitus:"

"Still are thy pleasant voices, thy Nightingales, awake;

"For Death, he taketh all away, but them he cannot take."

[From the Washington Post, Dec. 10, 1975]

A CELEBRANT OF LIFE

(By Gilbert A. Harrison)

May I add a few words about Thornton Wilder.

We first met in Los Angeles 35 years ago, he was having to come to advise on the filming of "Our Town." He was probably the most literate and exuberant entertainer the local folks had ever seen. They were charmed, and a little puzzled. What could a Hollywood producer make of a writer who would take no pay for his advice?

Two years later, Wilder was in the Air Force. He was 46: "Up at 5:15, drill, study, drill, study—all day. Lights out at 10. Hot days and close muggy nights under blackout. But it's all wonderful!"

It was always "wonderful," for Wilder had inexhaustible curiosity—that "ireless awareness of things." And you were invited, commanded to share the wonder.

He thought of himself as a school master. But he was more than a counselor of the human race through his novels and plays. He was an insistent counselor to friends. How many, I don't know. Hundreds?

He gave this kind of counsel to the young, at least younger than he: "It's your business now not to be 'eager' about the thousand and one things in the night sky of knowledge, but to be enthusiastic about the one or two constellations that you have marked down for your own, and the enthusiasm should have a legitimate portion of pride in it because they are matters about which you are certain that you know a good deal. Count that month lost in which you have not been swept up in an enthusiasm."

When I was editing The New Republic, a note called my attention to a "darned good" book review he had read—"so deferential in its severities."

In his 20s, he read all the great books in the French language, in his 30s all the German, and then the Spanish and Italian. And of course the English went on all the time. "Waves of excitement have gone over me continuously," he wrote, "all the more exciting because I found no one really to discuss them with; the specialist-professors have been bored by my enthusiasms; it is bad form to praise masterpieces to a professor, it is naive; it is half-baked." No matter. Locke and Descartes were "heavy wine," Bishop Berkeley was "champagne."

Wilder could take only a limited amount of "cultivated conversation"; it quickly went dead, solemn; it had too little inner energy, conviction. He was an intense, unpretentious celebrant of life.

With what joy and clarity he would explain unasked, his latest discovery—Gertrude Stein, Jean Paul Sartre, Claude Levi-Strauss, Lope de Vega. You had to know about them. You had to!

There was an evening at the Washington Hotel, which began in the manager's suite with a half hour of Handel—or was it Mozart—Wilder at the piano and the manager playing the cello. Then drinks and dinner in Wilder's room (food and drink deserved attentive care), and when the dishes had been removed and a scotch and soda placed safely within his reach, Wilder pulled himself up and began. "Now," and he pluged into a solo performance of a play he was writing. One hour, two hours, with Wilder playing all the parts. It was done so that he could test the force of it and see the effect of it. "I am never so happy," says the hero of his last novel, "as when I'm inventing."

It would be wrong to leave an impression that Wilder, with all his eagerness and bounce, was starry-eyed or gushy. "Up to the ago of 15," he said, "we can receive education openmouthed. After that we receive in a different way: we learn by resisting, or at

least by testing and by transforming." I once expressed admiration for a scene in William Saroyan's "The Human Comedy," in which a small boy is wandering through the stacks in the public library, and he gazes up and says in awe, "All those books!" Nonsense, said Wilder, that's adolescence, we grow up and read those books. And he would not agree that T. S. Eliot's "Cocktail Party" was genuine. Yes, it "appears to be about a vocation; but it's really about the unsatisfactoriness of human daily life . . . You sir, coming with all that background of religious conferences and youthful religious movements get into a sort of edified swoon every time the Soulful is mentioned. The religious aspects of Cocktail Party are, for my money, practically phoney."

Wilder had his own flag to raise. In the mid-20s he wrote a book of very short plays ("The Angel That Troubled the Waters") and said in his preface that he hoped, "through many mistakes, to discover the spirit that is not unequal to the elevation of the great religious themes, yet which does not fall into a repellant didacticism." But he knew that "there has seldom been an age in literature when such a vein was less welcome and less understood."

But "the age" he lived in was not an excuse for despair or indolence. He never stopped working. Two novels were written when he was in his 70s. Now there are only the books and their everlasting affirmations.

[From the Washington Post, Dec. 10, 1975]

A Poser of Questions

(By Rod MacLeish)

The other day they took Thornton Wilder from his house in Hamden, Conn., and rushed him to a hospital. But, by the time they got there, he was dead, an old writer gone on to other business. Yet those of us who stay behind for awhile can comfort ourselves with the realization that Mr. Wilder's great premise didn't die with him. Indeed, it has always cropped up in the complicated world and life of literature.

The premise insists that there are transcendent, unquenchable themes in the human passage and that addressing them is—or should be—the principal business of those who write. "I am not interested in the ephemeral—such subjects as the adulteries of dentists," Mr. Wilder once said. "I am interested in those things that repeat and repeat and repeat in the lives of the millions."

Because he devoted his creative life to that premise, Thornton Wilder was, at times, accused of insensitivity to the problems, currents and preoccupations of the times in which he lived. In the '30s he declined to write social criticism novels. He ignored the immediate themes that engaged most other serious writers in the '50s and '60s.

Instead, Wilder's limited output—seven novels and only two plays of enduring consequence—pondered the two or three vast, almost inexpressible questions that have plagued our species since its first consciousness of itself in conjunction with something else beyond us, our times and places. When the Bridge at San Luis Rey snapped, plunging five people to their deaths in the canyon below, was that an accident, a hazard of a meaningless world or was it part of an intended design? Another question: Is there possibility? "All I ask," said Mr. Antrobus at the end of Wilder's play, "Skin Of Our Teeth," "is a chance to build new worlds and God has always given us that. And has given us the voices to guide us and the memory of our mistakes to warn us."

Thornton Wilder, in other words, posed the same questions as Euripides, Sophocles and the other classic Greeks whose works fascinated and comforted him. And the reason that he couldn't answer the questions lay in the very face of literature; the writer, being mortal, doesn't know the answers any more than anyone else does. But he has the wit to keep on asking.

If we—or somebody among us—ever stopped asking, then we might come to believe that the problems, currents and preoccupations of the moment are what life is all about.

By some hazard of a meaningless world—or maybe it was a part of an intended design—Thornton Wilder appeared among us to re-ask the questions.

And that was what HE was all about.

[From the Washington Star, Dec. 11, 1975]

Thornton Wilder's Difficult Virtue

(By Edwin M. Yoder, Jr.)

When Mrs. Lyndon Johnson presented Thornton Wilder with the National Book Committee's medal for literature ten years ago, she—or some nameless White House ghostwriter—addressed the great man as follows: "Unlike some modern writers, you respect your fellow man and . . . the American language. You have never confused being modern in language with a dreary reliance on four-letter words. You have never assumed that realism in writing means a cloying self-pity or a snappish disdain for others."

Alden Whitman, the obituary man, quotes this curious tribute in a lengthy New York Times piece on Mr. Wilder, who died Sunday at 78 He doesn't say whether Mr. Wilder felt himself to be flattered by it. Probably not. The tribute, as the worldly Mr. Wilder no doubt recognized, springs from an exasperating ignorance of what makes the difference between good and bad literature.

Yet one sympathizes in a way. When you don't know quite what to say about an undoubtedly important writer, a helpful device is to play off his virtues, real or imagined, against the vices, real or imagined, of unnamed others.

Knowing just what to say about Thornton Wilder was always a problem, even for his admirers. He was not the literary square Mrs. Johnson extolled: not a Yale variant of the genteel tradition. He was always very much au courant. His early and constant booster, Edmund Wilson, was thunderstruck to find at their first meeting in 1928 that Thornton Wilder knew as much about Marcel Proust as he. Later, Mr. Wilder wrote a play, "The Skin of Our Teeth," that borrowed freely from James Joyce. And Joyce, as we know, was no prude about four-letter words and, in some of his early work, exhibited a snappish disdain for others.

No, the view of Thornton Wilder to which Mrs. Johnson gave official endorsement is that he was an affirmative and wholesome writer. He won this popular reputation with his first successful novel, *The Bridge At San Luis Rey*. It sold over a quarter-million copies in 1927 and prompted Peruvian officials to find a bridge such as Mr. Wilder had invented in the book for the unpleasant purpose of plunging "five travelers" to instant death, the better to ponder the theme of human destiny.

The Marxist critics of the 1930s, offended by his refusal to write literary propaganda, reinforced this reputation, one of them calling Mr. Wilder an "Emily Post of culture."

Millions of people who rarely read novels knew Mr. Wilder's imaginary small town, Grover's Corners, as he fondly portrayed it in "Our Town." Grover's Corners is as comfortable and reassuring as a Grandma Moses landscape—"ye olde American township," sneered Clive Barnes during one revival, "lovable, supremely marketable and supremely phony."

Even when writing (in The Ides of March, my own favorite) of a character known to history as a conqueror and dictator in the grand mold, Julius Caesar, Mr. Wilder's portraiture was sunny. If he had done for Napoleon or even Ivan the Terrible what he did for Caesar they would have seemed amiable.

And yet, vulnerable as he was to the charge of incorrigible cheerfulness, Thornton Wilder was important. If one were listing the dozen most considerable American fiction writers of the last 50 years he would be on the list. for all that he irritated severe critics and shone in uninstructed opinion.

The problem is, again, to say just what his great merit was. He did not invent a new style, like Ernest Hemingway. Unlike Thomas Wolfe he left no memorable characters. Unlike William Faulkner—very unlike William Faulkner—he did not wrestle with demons; he merely observed them distantly. He lived quietly, issued no manifestos on the topics of the day, adhered to conventional manners, suffered no known problem with alcohol, insulted no one. His conclusions about life, as intimated and sometimes baldly stated in fiction, were not altogether reassuring, though they were, as Mrs. Johnson put it, "without self-pity." He viewed life as a durable process, quite old and quite likely to survive its harsh setbacks.

True, his characters in both book and play tend to perch too often on the cracker barrel. Sometimes they sound like editorial writers in conference. In this weakness for grandiloquence he recalls the late Archibald MacLeish, who is also accused of wholesomeness from time to time. It is, in American letters, a reputation not easily overcome.

[From the New York Times, Dec. 8, 1975]

Thornton Wilder Is Dead at 78; Won Three Pulitzers for His Work

(By Alden Whitman)

Thornton Wilder, who won three Pulitzer Prizes for his writing, died yesterday in New Haven, Conn. He was 78 years old.

Mr. Wilder was dead on arrival at the hospital of St. Raphael about 7:25 P.M., a hospital spokesman said. He had been taken there in an ambulance from his home in Hamden, Conn. The cause of death was not immediately known.

Aloof from the 20th century's preoccupation with politics, psychology and sex, Thornton Niven Wilder concentrated in his novels and plays on what he construed as the universal verities in human nature. He seemed to be examining mankind from an Olympian platform, more concerned with the over-all topographical features than with geographical details.

"I am interested in the drives that operate in society and in every man," the stocky, owlish-appearing writer said a few years ago in a moment of self-disclosure. "Pride, avarice and envy are in every home. I am not interested in the ephemeral—such subjects as the adulteries of dentists. I am interested in those things that repeat and repeat and repeat in the lives of the millions."

These quintessences were probed for, summarized and recounted in seven novels and two major serious plays published over 40 years, an output hardly prolific by the standards of most writers. Nonetheless, these works, written in an elegant yet simple style, lifted Mr. Wilder to the front ranks of American men of letters. He won three Pulitzer Prizes, the first in 1928 for the novel "The Bridge of San Luis Rey"; the second in 1938 for the play "Our Town" and the third in 1943 for the drama "The Skin of Our Teeth." For "The Eighth Day," his seventh and last novel, he received the National Book Award in 1968.

Moreover, for the whole body of work, he received the National Medal for Literature of the National Book Committee. This honor, along with $5,000, was conferred on Mr. Wilder at a White House ceremony in 1965. Articulating the attitude of thousands of readers, Mrs. Lyndon Johnson told the shy, quiet writer then that he had succeeded in

making "the commonplaces of living yield the gaiety, the wonder and the vault of the human adventure."

RESPECT FOR LANGUAGE

"Unlike some modern writers," the First Lady said, "you respect your fellow man and you respect the American language. You have never confused being modern in language with a dreary reliance on four-letter words.

"You have never assumed that realism in writing means a cloying self-pity or a snappish disdain for others. You have written with an understanding, affectionate rapport with your subjects which to me is the hallmark of genuine literature."

Although this view was by no means unanimously endorsed by literary and theater critics (Mr. Wilder was acclaimed by Edmund Wilson and drubbed by Dwight Macdonald), he held the sustained attention of middlebrows. Not only did his fiction continue to sell years after publication, but also his serious plays were revived hundreds of times. Even the insubstantial "The Matchmaker," transmuted into the musical "Hello, Dolly!" was a perennial favorite.

The qualities that accounted for Mr. Wilder's enormous popular appeal were his evident talent as a storyteller and his singular knack of dressing up his parables as realistic fiction.

At the same time, he posed cosmic questions, "those old teasers Heredity and Environment, about gifts and talents, and destiny and chance." Mr. Wilder phrased his question in "The Eighth Day" this way:

"This John Ashley—what was there in him (as in some hero in those old plays of the Greeks) that brought down upon him so mixed a portion of fate: unmerited punishment, a 'miraculous' rescue, exile, and an illustrious progeny?"

AMBIGUOUS ANSWERS

As with questions in his other books, Mr. Wilder explored them but did not give unequivocal answers. In "The Bridge of San Luis Rey," for example, the question was, why did the collapsing bridge plunge five particular persons to death? The conclusion left uncertain whether the disaster was the work of God or the result of chance.

Equally ambiguous was Mr. Wilder's answer, in "The Ides of March," to the question, what is greatness? If Wilder novels offered the reader no certitudes, they did affirm a sense of human possibilities, an optimism that life can be satisfying.

Although Mr. Wilder was essentially a metaphysician, his novels (and his plays) were infused with humor and wit. "Because we live in the 20th century, overhung by very real anxiety, we have to use the comic spirit," he once explained. "No statement of gravity can be adequate to the gravity of the age in which we live."

In contrast to his fiction, which was notable for its adherence to form, his major plays broke with the usual rules of the theater. When Mr. Wilder showed "Our Town" to Edward Sheldon, a knowledgeable friend and playwright, he said:

"Of course, you have broken every law of playwriting. You've aroused no anticipation. You've prepared no suspense. You've resolved no tensions."

The play also lacked scenery and its plot was sketchy; yet it did succeed, as did the more rambunctious "The Skin of Our Teeth." This play, in which the action was out of orthodox sequence, was the story of Everyman spread over 5,000 years, from the Flood to Armageddon.

THROUGH A TELESCOPE

"'Our Town' is the life of the family seen from a telescope five miles away," Mr. Wilder explained. "'The Skin of Our Teeth' is the destiny of the whole human group seen from a telescope 11,000 miles away."

The themes of these plays, as well as those of the books, were not intended to be profound. Indeed, Mr. Wilder believed that "literature is the orchestration of platitudes," and that its function was not to reveal new truths so much as to trigger those that lie within everyone.

Until he was 65 and began what he called his retirement, Mr. Wilder indulged an uninhibited appetite for life. Full of bounce and bubble, entirely without airs and immensely interested in people, he fueled himself on travel and conversation. His friendships ranged from truck drivers to waitresses ("I don't pinch. I just relish human beings"), from Sigmund Freud to a Chicago hoodlum named Golfbag, from Robert Hutchins to Gene Tunney and from Gertrude Stein to Texas Guinan, the nightclub entertainer.

Indeed when Mr. Wilder was teaching in Chicago, he took to visiting Miss Guinan's club and she would sometimes call on him to take a bow. "Come on up here, Thornton," she would cry out. "Folks, give Thornton a nice hand. He's the best little writer in these United States."

A NATURAL EXPRESSION

Mr. Wilder's genius for finding rapport with virtually every person he met was especially striking in his relationships with students. "Teaching is a natural expression of mine," he once remarked, and he was very good at it indeed with teen-agers (at Lawrenceville) and college youth (at the University of Chicago and at Harvard). Lecturing on creative writing or the classics, he was a showman. Describing his platform performance, Time magazine said in 1953:

"He would fling his arms about, jump from the platform and leap back again. Talking at trip-hammer speed, he was sometimes in front of the class, sometimes at the back, sometimes at the window waving to friends. Wilder could play the blind Homer, a Greek chorus or the entire siege of Troy. Even his pauses were planned, with an actor's timing, to keep his audience in suspense."

Wherever he went he was trailed by students ("my Kinder") as if he were the Pied Piper; and he was never too busy ("On my grave they will write: 'Here lies a man who tried to be obliging'") to engage them in talk, spinning off ideas in English, French, German, Italian or Spanish. He also liked to lecture his friends, filling gaps he discerned in their knowledge.

Indeed, Garson Kanin, the director, once observed:

"Whenever I'm asked what college I attended, I'm tempted to reply 'Thornton Wilder.'"

SON OF A PUBLISHER

Mr. Wilder's propensity for instructing others was a trait he acquired from his father, Amos Parker Wilder, a Maine-born newspaper publisher and editor in Madison, Wis., who counted the day lost when he did not somehow add to his children's fund of information. Thornton, the second of five children, was born to Amos and the former Miss Isabella Thornton Niven in Madison on April 17, 1897.

When the boy was 9, the family moved to Hong Kong, where the elder Wilder was stationed as United States consul general. Thornton attended a German school there and, later, a school for missionaries' sons at Chefoo. Afterward, he was returned to California to prepare for Oberlin College in Ohio, which he entered in 1915. Already he was writing one-act plays for his sisters to act in. Two years later he transferred to Yale, served for a year in the Coast Artillery during World War I and took his degree in 1920.

At Yale, the youth continued his omnivorous reading in world literature, wrote for The Lit, turned out plays and came under the influence of Prof. William Lyon Phelps, the distinguished teacher. Said the professor of his student, "I believe he is a genius." "Oh, tut-tut-tut, Billy," Thornton's father replied, "you're puffing my boy up way beyond his parts."

Preparing to become a teacher, Mr. Wilder spent a post-graduate year at the American Academy in Rome and returned to the United States in the fall of 1921 to teach French at Lawrenceville, an exclusive boys' preparatory school near Trenton.

FIRST NOVEL SUCCESSFUL

He passed eight years there ("I am the only American of my generation who did not 'go to Paris'") drilling teen-agers in French irregular verbs, getting a post-graduate degree at Princeton and working on "The Cabala," his first novel. A mannered story of a group of Roman aristocrats, ancient gods in modern dress, the novel was a critical success. He also scored a small triumph with "The Trumpet Shall Sound," which was produced by the American Laboratory Theater.

Meantime, from a Prosper Merimee play he conceived the idea for "The Bridge of San Luis Rey," which was published in 1927 and brought Mr. Wilder instant national and international fame. The novel's opening sentence set its tone:

"On Friday noon, July the twentieth, 1714, the finest bridge in all Peru broke and precipitated five travelers into the gulf below."

The book was, according to the critics, "a little masterpiece," a work of "genius," an expression of "pure grace." These were estimates with which the public agreed, for the book sold 300,000 copies in a year—an astronomical figure for that time—and was translated abroad. And Peru even found a bridge to fit Mr. Wilder's fictive one.

The writer employed his royalties to buy a house in Hamden, Conn., on the outskirts of New Haven and to travel to Europe with his sister Isabel. There he was the lion of the day, dining with Arnold Bennett and George Bernard Shaw and touring Germany. He showed up on the Riviera with F. Scott Fitzgerald and Glenway Wescott. He also found time to write "The Woman of Andros," which was inspired by a Terence play.

This novel earned Mr. Wilder more critical applause, and its "harmonious limpidity of style" was especially remarked. About this time, Edmund Wilson, one of the country's most influential critics, began to rank Mr. Wilder with Ernest Hemingway, Mr. Fitzgerald and William Faulkner. On the other hand, in the Depression of the early thirties, when novels of social significance seemed important, Mr. Wilder came under attack.

The most fervent assault was written by Mike Gold, a Marxist critic, for The New Republic under the title "Wilder: Prophet of the Genteel Christ."

Mr. Gold said that Mr. Wilder ignored the social injustices of America while writing for a "small sophisticated class." "Is Mr. Wilder a Swede or a Greek, or is he an American? No stranger would know from the books he has written," Mr. Gold said. He went on to argue:

"[Mr. Wilder] has all the virtues Veblen said this leisure class would demand: glossy high finish, caste feeling, love of the archaic . . . This Emily Post of culture will never reproach them; or remind them of Pittsburgh or the breadlines."

Mr. Wilder was stung by this and similar criticism, for in 1921 he published his first works about contemporary America, "The Long Christmas Dinner and Other Plays in One Act." And in 1935 he wrote "Heaven's My Destination," a novelistic attempt at social realism. It was witty and satiric; but it failed to please either the realists or the esthetes.

START OF A FRIENDSHIP

Amid these controversies Mr. Wilder was teaching at the University of Chicago at the

invitation of his friend, Mr. Hutchins. The job permitted the author to teach for a half year and to travel the rest of the time. It also gave him an introduction to Miss Stein that was the start of a close friendship, and when he left Chicago in 1936 he paid a long visit to the expatriate American writer's villa in France. Writing of the experience afterward, Mr. Wilder said:

"Gertrude Stein made a distinction between human nature and the human mind. Human nature, she said, clings to identity, to location in time and place. The human mind has no identity; it gazes at pure existing and pure creating, and 'it knows what it knows when it knows it.'

"It can be found in masterpieces, for masterpieces alone report the ever-unfolding and the boundless Now.

"But it can also be found in America, which was brought up to believe in boundlessness."

"Our Town," which was staged in 1938, contained some of these musings as it portrayed life in Grover's Corners, N. H., as representative of all smalltown life. Frank Craven was the Stage Manager when the play opened at Henry Miller's Theater in New York, after a shaky tryout in Boston. It was a hit on Broadway from the start. It moved Alexander Woollcott, the critic, to tears and the mot, "I'd rather comment on the 23d Psalm than 'Our Town.' "

REPUTATION FLUCTUATED

Mr. Wilder himself took the role of the Stage Manager for two weeks during the play's Broadway run and later played it in several summer stock productions. He also appeared in revivals of "The Skin of Our Teeth."

The reputation of "Our Town" fluctuated with the years, and by 1968 the Pulitzer Prize drama's relevance was being questioned. Reviewing the revival then, Clive Barnes, The Times drama critic, said:

"Mr. Wilder has described his play as 'an attempt to find a value above all price for the smallest events in our daily life.' To do this, however, he has produced a pretty Andrew Wyeth-like landscape, almost doomed by its superficial attractiveness. There is no malice in Grover's Corners and no death; the citizens' rites of passage proceed tidily from the cradle to the grave, and everyone lives, massaged by good thoughts and compliant to God's will.

"It would be a great life if anyone lived it. No, I fear that Grover's Corners is merely ye olde American township, Anglo-Saxon to the core, lovable, supremely marketable and supremely phony."

Shortly after "Our Town" made its bow, Mr. Wilder staged "The Merchant of Yonkers," which did not do well at the box office. He rewrote it as "The Matchmaker" in 1955, and it did better, but not nearly so well as "Hello Dolly!," the saucy musical adapted from it.

After "Our Town" Mr. Wilder scored again on Broadway with "The Skin of Our Teeth." The story of man's constant struggle for survival and his astonishment over why he struggles was praised in The Times as being presented "with pathos and broad comedy, with gentle irony, and sometimes a sly self-rallying."

A CHANCE TO BUILD

"All I ask " said Mr. Antrobus, the play's Everyman, as the curtain fell, "is a chance to build new worlds and God has always given us that. And has given us (*opening a book*) voices to guide us and the memory of our mistakes to warn us."

The play itself reminded many of "Hellzapoppin" because the scenery bounced up and down, the players carried on rehearsals and the audience at one point was asked to give up its seats to keep the fire going against the advancing ice age. It also reminded some keen-eyed viewers of James Joyce's novel "Finnegan's Wake," and there were nasty charges of plagiarism.

Mr. Wilder, an admirer of Joyce, declined an invitation by The Saturday Review of Literature to answer the charge, but friends said it was no secret that "Finnegan's Wake" had inspired the play. Later, Mr. Wilder backhandedly acknowledged his debt by saying:

"My writing life is a series of infatuations for admired writers."

The episode was said to have persuaded the Critics' Circle to withhold its 1943 award from "The Skin of Our Teeth," but it did not bother the Pulitzer jury, which gave the play its prize.

Coming at a low point in World War II, "The Skin of Our Teeth" touched audiences with its message of courage and hope. Tallulah Bankhead played Sabina, the eternal temptress; Fredric March was Mr. Antrobus; and Florence Eldridge was his ever-faithful wife. In a 1955 revival the cast included Mary Martin, Helen Hayes, George Abbott and Florence Reed.

HELD NORTON CHAIR

During the war years Mr. Wilder served in the Army as a lieutenant colonel in air intelligence, posted in North Africa and Italy. On his return to Connecticut he worked on "The Ides of March," a novel of Rome in Julius Caesar's time, a rich and a human novel. He was also invited by Harvard to occupy the Charles Eliot Norton chair for the academic year 1950–51. In lectures then he expressed his attitude toward Americans, saying:

"From the point of view of the European, an American is a nomad in relation to place, disattached in relation to time, lonely in relation to society and insubmissive to circumstance, destiny or God.

"It is difficult to be an American, because there is as yet no code, grammar, Decalogue by which to orient oneself. Americans are still engaged in inventing what it is to be an American.

"Americans could count and enjoy counting. They lived under a sense of boundlessness. And every year a greater throng of new faces poured into their harbors, paused and streamed westward. And each one was one. To this day, in American thinking, a crowd is not a homogeneous mass, but is one and one and one.

"Every human being who has existed can be felt by us to be existing now. All time is present for a single time. Every American has this sense, for the American is the first planetary mind. Americans have the realization of the multiplicity of human beings and their geographical extension. Many problems which seem insoluble will be solved when the world realizes that we are all bound together as the population of the only inhabited star."

In the fifties Mr. Wilder traveled a good deal, maintained a prodigious correspondence and worked on "Alcestiad," a drama inspired by Euripides that was produced abroad but not here, toiled at his hobby of dating the plays of the Spanish dramatist Lope de Vega, played at the piano and took walks.

His neighbors in Hamden saw him as a large man with beetling eyebrows and a light brown mustache, jolly for the most part, and a blue-streak talker. He dressed indifferently and ate even more carelessly. A lunch recorded by Mr. Woollcott consisted of lobster Newburg, cocoa and brandy. His sister Isabel kept house for him and fended off the curious.

In 1957 Mr. Wilder dropped his correspondence, cut off most interviews and virtually dropped out of the active world. The step was not really retirement, for Mr. Wilder began patiently to write "The Eighth Day." Always a careful writer ("The incinerator is the writer's best friend"), he worked patiently over the 400-page novel that was designed to demonstrate that man is not an end but a beginning.

The title had Biblical overtones. As one of the characters explains:

"The Bible says that God created man on the sixth day and rested, but each of those days was many millions of years long. That day of rest must have been a short one. Man is not an end but a beginning. We are the beginning of the second week. We are children of the eighth day."

RECEIVED MIXED NOTICES

The book, issued in 1967, received mixed notices. Praising it, Eliot Fremont-Smith wrote in The Times:

" 'The Eighth Day,' a novel in what might be called the old tradition, is a very fine performance—honest, intelligent, suspenseful, profoundly moving and all done quietly, with dignity, without trick or need for entreaty.

"If a touch of patronizing is finally felt (not during the reading but afterwards in reflection), this, like the sense of affirmation, may be endemic in all grand designs, God's or Mr. Wilder's. But few will feel it, and fewer still will mind. What matters is that one of the country's recognized master artists has produced his best and most absorbing novel."

From this view there was strong dissent, typified by Stanley Kauffmann's review in The New Republic, which said:

"There is no question here of whether Wilder has sustained claims to serious consideration; seriousness does not even enter into it. Although the Wilder views are recognizable, this new book almost seems to have been written by another man, an imitator inferior to the feeblest Wilder we have previously seen.

"The writing—by a man distinguished in his youth for style—is without grace, though he strains for it constantly; the characters are stagey, hollow, unrealized; the plot, full of arthritic twists, is attenuated and undramatic although the author himself seems generally breathless with excitement, the theme, as apprehended here, is sophomoric."

BRITISH CRITICS RESERVED

The British critics were also reserved. The (London) Times Literary Supplement, for example, said:

"All Thornton Wilder's earlier concerns and techniques—the allegory of 'The Skin of Our Teeth,' the Grover's Corners everytown morality of 'Our Town,' the stylistic point counterpoint of 'The Bridge of San Luis Rey'—re-emerge in this book. He has always been a story-teller, but now the urge sounds didactic, no longer dramatic; and the ultimate concern too easily re-echoes George Antrobus's 'most important thing of all: the desire to begin again, to start building.' "

"This truism, although awakening its felt response in 1942, today evokes merely the facile optimism of an earlier generation of Americans."

Nonetheless, there was a popular appetite for Mr. Wilder's works. "The Eighth Day" sold well, and his plays, including some of his short ones from the cycle "The Seven Ages of Man," were mounted from time to time.

After publication of "The Eighth Day" Mr. Wilder declined to participate in award ceremonies that it prompted, remaining for the most part in Hamden, with visits to Martha's Vineyard in the summer. He never married, explaining once that he was so busy that he had "just skipped" acquiring a wife.

THE PANAMA CANAL

Mr. McGOVERN. Mr. President, the January 1 issue of Rolling Stone contains a thoughtful and perceptive article on the Panama Canal issue by Jan Morris.

In view of the interest in this issue in the Congress, I ask unanimous consent

that this article be printed in the RECORD.

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

[From the Rolling Stone, Jan. 1, 1976]

A TERMINAL CASE OF AMERICAN PERPETUITY

(By Jan Morris)

I. THE GENRE

They have a TV program in England in which a panel of eminent antiquarians inspects curios and objets d'art presented for its assessment by eager collectors. "Nice enough little piece," they say. "You inherited it from your grandmother did you Mrs. Thompson? Well, it's not quite a first-class example, I don't think—something a little greenish about the glaze, wouldn't you say Francis?—but still a nice little thing, very pleasing, well worth hanging on to Mrs. Thompson."

In such a consultative capacity, as an aficionado of historical curiosities, did I fly into Central America the other day to inspect that well-known collectors' item, that controversial but beguiling example of diplomatic craftsmanship, the Panama Situation. I will not pretend to you that it was always a specialty of mine.

When I awoke in my hotel room in Panama City, the capital, the morning after my arrival, I did not know whether it was the Atlantic or the Pacific Ocean I could see extending, bounded by humpbacked islands and speckled with shrimp boats, grayish and steamy outside my window. It was the Pacific actually, but as the waiter said when he brought my breakfast, I need not feel ashamed of myself—hardly anybody knows for sure.

Geographically Panama, which occupies the narrowest sliver of land in Central America, is a confusingly contorted country. Dividing as it does, almost symmetrically, North from South America, and calling itself, almost incessantly, the Bridge between the Oceans, it ought to run north and south, but instead goes perversely, and unreliably, east to west. The Pacific is south of Panama, the Atlantic north; the sun rises over the Caribbean; to go to the States from Panama City one sets off, ignorantly protesting, in a southwesterly direction. Moreover, the country is surrounded by states whose location most people are vague about, like Costa Rica and Colombia, besides having a history that few foreigners can grasp, a population rather less than Detroit's, and a name that nobody knows the meaning of, some translating Panama as "Lots of Fish," some as "Many Butterflies," and some rather feebly as "Big Trees."

Nevertheless, the moment I stepped out into the drizzle of Via España (for it was the rainy season and those shrimp boats lay there hangdog and apparently waterlogged in the bay), I recognized the genre. The Panama Situation is a late classic of the imperial form. It possesses all the true imperial elements: a distant and tremendous dominant power, an anxious settler community, a subject people united only in resentment, dubious historical origins, a sleazy tropical setting, above all, a specific raison d'être. In the annals of Empires there is no artifact more charged with passion and purpose than a canal, for great works of irrigation and navigation were always hallmarks of imperial grandeur, and sometimes its excuses too. Wherever Emperors ruled in foreign parts, they commemorated themselves with mighty waterworks, as though to demonstrate their mastery not merely over the lesser breeds, but over nature herself. In Mesopotamia the rulers of Babylon brought the desert to life; in Egypt the Pharaohs linked the Mediterranean with the Indian Ocean; grand aqueducts marked the progress of Rome across Europe; in India the Victorians summoned new provinces into existence by their monumental dams and conduits. The Suez Canal, though the British did not actually build it, became so inescapable an emblem of their imperialism that the phrase "East of Suez" was a synonym for Empire itself, and the Empire's desperate attempt to keep control of the waterway became in the end its bitter curtain call. Nearly always the constructions were destined to outlive their sponsoring sovereignties, and when all the substance of command had faded, the drums were silenced with the rhetoric, then the great work lingered on, crumbling more slowly down the centuries, like the last ironic smile of the Cheshire cat.

The greatest single work of the American Empire is the Panama Canal, the 50-mile waterway which, bisecting the Republic of Panama, links the Pacific and the Atlantic oceans, and has for more than 60 years given the United States an overwhelming presence at the junction of the Americas. The Canal is the truest meaning of the Panamanian Republic, though Panamanians hate one to say so, but no less is it a terrific expression of American imperialism in its original and simplest sense, older by far than the complexities of Vietnam, the CIA or the conglomerates. It was bred by Big Stick out of Manifest Destiny, two thoroughbreds of American assertion with which, around the turn of the 20th century, the Americans hoped to keep up with the galloping European Empires. "Take up the White Man's Burden," Rudyard Kipling had abjured the Americans, and nobody responded more boisterously to the call than Theodore Roosevelt, "Theodore Rex," who had already more or less arranged the acquisition of the Philippines, and was to see in the construction of the Panama Canal, with its emphasis on skill, strength and usefulness, a truly Kiplingesque consummation of American splendor.

Like most great imperialist enterprises, it had murky beginnings. It was an old dream, of course—for generations people had thought of piercing the isthmus, and Panama indeed had come into existence as a place of transit between the Atlantic and the Pacific. Here the conquistadors girded themselves for their assaults upon the Inca kingdoms, and here, by mule track from one coast to the other, the booty was assembled for shipment to Spain or plunder by English pirates. Here the gold-rush men staggered through swamp and jungle on their way to California, and here, as far back as the 1850s, the Panama Railroad Company of New York laid a line across the isthmus and carried $750 million of gold bullion back to the East from California. The Panama Situation, by which this ancient function became subject to American expansionist instincts, was born in the early 1900s. Until then Panama had formed part of a province of the Colombian Republic, subject to the neglected authority of Bogotá: It was the prospect of the Canal, giving the isthmus an incalculable international importance, which enabled the local nationalists to break away and establish their own hopeful if infinitesimal state.

Here was the American chance. Ferdinand de Lesseps, the French genius of the Suez Canal, had already begun work on a cutting through Panama, but had made a terrible mess of it all, sinking deeper every year in shame and corruption—the Panama Scandal, it is called in the French history books, and it is said that de Lesseps's bribery of the French press was so thorough that even Choral Societies Echo got its payoff. The Company went bankrupt, and so in 1903 Washington stepped in.

By guaranteeing the independence of the new Panama Republic, by a frank flourish of the Big Stick in fact, President Roosevelt arranged that the Panama Canal would be a great work of American enterprise, a marvel to posterity and an earnest of American greatness forever. As Suez was to the British, Panama would be to the United States; not just a commercial enterprise, not only a strategic convenience, but a grand talismanic truth, the ships of all the nations passing symbolically beneath the Stars and Stripes from one half of the world to the other. "I took Panama!" Teddy Roosevelt cried, and he was echoing, consciously perhaps, Disraeli's celebrated report to his monarch, when with a loan from the Rothschilds he bought Britain's way into the Suez Canal: "Madam, the Canal is yours."

A proper degree of skulduggery was involved. The Panamanians, being inexperienced in power politics, had employed a French commission agent, the astute Philippe Bunau-Varilla, to present their case to Washington, offering in effect a canal concession in return for cash and protection. Bunau-Varilla had good personal reasons for wanting an agreement, since he stood to gain financially himself, and in no time at all he had drawn up the terms of a treaty. By the time the Panamanian leaders got to Washington themselves, he and John Hay, the U.S. secretary of state, had already signed it. The entire future of the Panamanian state had been decided by a Frenchman and an American; and Hay himself frankly told the Senate, when the treaty came up for ratification, that it was "very satisfactory, vastly advantageous to the United States, and we must confess, not so advantageous to Panama." The Senate naturally ratified it at once, for what it promised the Americans, give or take an interpretation or two, was not just the right to build and operate a canal across the isthmus of Panama, but the right to establish a colony of their own around it, with all the rights of sovereignty, inalienable, complete and in perpetuity.

The Panamanians were paid a modest fee—$10 million down, $250,000 yearly annuity—and could certainly be assured that no revengeful Colombian gunboat would be permitted to bombard Panama City. But the Americans were given sovereign powers over a swath of land ten miles wide running clean across the new Republic, dividing it absolutely in half. The Panamanians would have no share in the profits of the Canal: The Americans would have the right to do almost anything they pleased in the Canal Zone, to have a monopoly of all transisthmian communications forever, and even to keep order within the Panamanian cities of Colon and Panama City, which were not in the Zone at all.

Roosevelt was delighted. The uncompleted French works, with the railroads, were handed over to the United States government, represented by a Panama Canal Commission, and before long 45,000 men had poured into Panama, from the States, from the West Indies, from Spain, even from Greece and Italy, to build the all-American canal.

In 1906 Roosevelt went down in person to inspect progress. It was the first time an American president had ever left the country during his term of office, and it was like a Pageant of Destiny in some celebratory festival; all among the dredgers and the steam hammers, the toiling thousands of workers, the jungle clearings and the swamp causeways, the president strode bull-like and resolute, in knickerbockers and straw hat. Here was the American Empire, the White Man's Burden heroically shouldered! Sweeping irresistibly through marsh and shrub, defying disease, employing all the latest instruments of science and engineering, tremendously the Americans were cutting their ditch between the oceans. It was, said Roosevelt, one of the great works of the world. More than that, declared the editor of Panama and the Canal in Picture and Prose, it was "the most gigantic engineering undertaking since the dawn of time." The Canal was the equivalent of a ditch ten feet deep and fifty-five feet wide clean across the United States, Maine to Oregon, or a hole 16.2 feet square from the North to the South

Pole. It was Colossal! It was Historical! It was American!

Seventy years later it is still there, and in essence nothing much has changed in the relationship between Panama and the United States. But a situation that seemed the very latest thing in 1906, the most modern product of expansionist policy, is now a period piece. Though it can still give pleasure to enthusiasts like me, and still raise a frisson in true-blue all-American hearts, still good taste has outgrown it over the years—don't you agree, Francis? It has lost its atavistic punch, and is riddled anyway, I am sorry to have to say, with rot and woodworm.

II. THE NATIVES

The natives are restless, for the Republic of Panama has greatly changed its temper since those hapless delegates, morosely surveying the terms of their treaty, returned to their bewildered compatriots in 1903. They are frustrated, unfulfilled, and their national life has come to revolve around a grievance—as though in a subtle and insidious way they have been deprived of potency.

There is a shabby corner of Panama City which effectively conveys, I think, this flavor. It is down by the markets, in the old Spanish part of the city, and is pervaded by a powerful odor of dismembered bullock and gutted codfish, but it is not without beauty either, for here the wooden tenements open out to reveal a small shingly beach upon the bay, a fine sweep of sea, and the white high-rise buildings of the city's posher quarters to the east. This is a busy place, but not frenzied. There is something expectant to the scene, something calculated perhaps, as though everyone is waiting for an interesting event to occur—as though the whole city is waiting, indeed, for some grand and undefined denouncement. In the market entrance a leisurely row of men and women is selling lottery chances, sitting on the ground with legs stretched out, carpeted by green and yellow tickets.

Facing the beach are a couple of open-fronted cafes, at whose counters one or two layabouts are meditatively or perhaps narcotically slumped. Whorelike ladies are here and there, giggling mildly with construction men or swapping symptoms with colleagues, and from the door of the marine police station a couple of lean gendarmes, heavily armed and darkly spectacled, look broodingly across the square, as though they are wondering whom to electrocute next. Above the beach there is a pile of rubbish; and there in ghoulish concentration half a dozen vultures pick away among the garbage, looking for bones and offal, or perhaps corpses, sometimes flapping their huge wings in appreciation, or taking off heavily among the rooftops, trailing strings of gristle.

Yet if it is a squalid scene, smelly too, it is very easily transformed. The Panamanians are people of great charm, and any one of those stagy characters, tart, cop, hardhat or beachcomber, will respond with grace to a greeting or an inquiry. Physically Panama may not be a very prepossessing Republic, but it has a quick and courteous style, even down there among the scavengers. Can it be you yourself, you momentarily wonder, that they have been expecting, like one of those theatrical tableaux that need only a director's click to bring them to life? But no, when they have given you your directions, and you look back upon the scene as you walk away toward the cathedral, that spell of anticipatory suspension has fallen upon it once more, and everyone is waiting for Godot again.

Panama lacks *settledness*. Perhaps it always has. Perhaps it is something to do with its function of transit. It has always attracted the rootless, raffish kind, from the lusty Welsh pirate Henry Morgan, who with his compatriot John Morris sacked Old Panama in 1671, to the Spanish developers, American bankers, Russian cultural delegates and French arms salesmen who still fish hopefully in its somewhat polluted waters. Panama is a community of gamblers, jockeys, boxers and cockfighters, a place where characters habitually disappear to, or reemerge from, in old-fashioned thrillers. Its greatest institution is the National Lottery, which holds the entire population in its grip, and it has traditionally been a great entrepôt of the drug trade, in whose profit, if we are to believe a line of gossip peddled almost everywhere in the modern world, many of its most prominent citizens have shared (you do know, don't you, about the Archbishop of Canterbury and the Corsican Connection?).

It lives for, by, around and because of the Canal, just as its churches, convents and caravanserai arose around the mule tracks of the Spaniards.

Tourist guides speak glossily of mountain resorts, delectable island beaches, unspoilt Indian tribes, and colorful country markets, but really Panama *is* the Canal. "If you're going to Gibraltar, dear," says one lady to another in a favorite Victorian cartoon, "you must on no account miss seeing the Rock"; and similarly one might say that if you are visiting Panama, you should keep your eyes open for the Canal. Probably a third of the population lives in one or other of the two Canalside cities, Colón at the Atlantic end, Panama City at the Pacific, and the whole texture of their lives, their manners and mores, their outlooks, their incomes, are influenced by the presence of the waterway.

This makes for an embattled feeling, too, as though they are struggling always to keep their dignity, or even their identity. The city of Colón is bisected by a rather grand boulevard, tree lined and ornamented with heroic statuary, Nationhood, Motherhood, Christopher Columbus, that kind of thing; but all around the Paseo del Centenario oozes the contagion of the Canal, in duty-free zones and sailors' bars, in yachts impounded for drug smuggling and seamen arrested for midnight brawls, in Hindu emporia and cut-price camera shops, in the shrill and gaudy bustle of Front Street, where generations of travelers have come ashore to be deftly clipped or comforted. Educated Panamanians try hard to maintain their Castilian poise, but it is hard to seem very composed on the edge of all this racket, and diligently though the National Cultural Institute presents its folk festivals and piano recitals, wittily and caustically though the Panama bourgeoisie observes the passing charade, still it must be said that the Republic of Panama, as Lord Roseberry once observed of the entire African continent, is not much of a place for a gentleman.

Wistfully they keep trying. I was taken to the theater one night to see the Cuban National Ballet, with its celebrated *première danseuse*, Alicia Alonso. It is a dear little theater, exuberantly embellished with gilt and flourishes, and the balletgoers were dressed in their slinky best and greeted each other with cousinly enthusiasm, since they all seemed to be related; but no less than that seamier ensemble beside the market, I thought, did the occasion seem to express some sense of yearning, some *jamais vu*. When the music struck up it was played only on a wavering record player, and the ballet itself turned out to be largely propaganda, emancipated peasants greeting a golden dawn, or marching shoulder to shoulder toward the revolution. The Panamanians greeted these exhortations halfheartedly, and there was some booing, not from the gallery but from the dress circle, where Aunt Elisa sat decorously with her nephew the professor.

Panama is a kind of police state, but not the most awful kind, for unlike some of its neighbors it has an easygoing tradition of politics. The family oligarchy which, until 1968, ran the place in quadrillelike succession was venal perhaps, but not often cruel: The revolutionary government which has succeeded it does not, I am assured, habitually murder its opponents, or incarcerate too many critics on its penal island. Exile rather than execution is the rule, and sometimes a dissident even returns from banishment and lives happily enough ever after.

Still, all the paraphernalia of despotism is there. The press is entirely controlled, all political parties are banned and the statutory portraits of the chief, General Omar Torrijos Herrera, gaze lugubriously from cobblers' shops and gas stations. There is a genial president of the Republic, who keeps live white herons in the hall of his presidency beside the sea, their cages lined daily with clean white copies of the morning newspapers. There is a ministry of civilians, mostly from the middle classes. There is even an impotent National Legislature, in a showy new Legislative Palace. The true core of the state, though, the state itself perhaps, is the National Guard, part army, part police, which brought General Torrijos into power seven years ago and keeps him there now.

This all-powerful gendarmerie is no joke. In other countries there is often something tragicomic about military despotisms, with their preposterously epauletted generalissimos and their strutting puffed up majors, but there is nothing laughable about the National Guard of Panama. Expensively equipped, well-trained and disciplined, it is like a formidable praetorian guard implanted immovably in the heart of the Republic, with fingers in almost every Panamanian activity. Its elite battalions, the Tigers and the Pumas, are enough to scare any dissident into conformity, and its intelligence is said to be omniscient, so that people think twice before telling anecdotes about it.

The fortress headquarters of the force is in El Chorrillo, another of the less inviting quarters of Panama City, and a baleful place it is, being surrounded by slums, gas storage tanks and the city prison. As it happens I spent a couple of hours inside it, for I had arranged to meet the guard's chief of security, Colonel Manuel Noriega, and since he never in the event turned up, a common enough Panamanian practice, I was left to kick up my heels and pursue my fancies deep in his bunkerlike suite of rooms—now and then looked in upon by obliging orderlies, soothed by music from a local uplift program called the *Bright Sounds of Inspiration*, but otherwise all on my own.

How strange, to sit alone in the lair of an unknown security chief! I had heard conflicting reports of Colonel Noriega. He was sinister, he was not bad really, he had hypnotic eyes, watch out for his hands, he liked art, he knew all about interrogation. Certainly he looked after himself in his bunker. Steel doors enclosed it, with armed sentries and closed-circuit TV in his outer office, within the shuttered gates of the building itself, within the guarded wires of the headquarters compound. It was bugged, no doubt, and it had no windows, only skylights. The longer I sat there, and the more boldly I opened doors and peered around the place, the more vividly I seemed to see the absent colonel, and perhaps the autocracy he enforced. Here, through the left hand door, was the sybaritic side of him, the sensual side, all done up in chrome and white leather, with thick sexy carpeting, and bright pictures of girls and landscapes, and a well-stocked cocktail cabinet, and a very strong suggestion of self-indulgence.

Here, through the right-hand door, was his machismo: his big black TV console, with its six steady pictures of exits and entrances, his library of books on counter-insurgency and military intelligence, a huge photograph of himself parachuting out of an aircraft, and above the door an automatic rifle of the

Egyptian Army, brought home from Sinai by the Panamanian contingent to the UN peacekeeping force.

Here and there I diffidently pottered, while the *Bright Sounds of Inspiration* wallowed on, and gradually there overcame me a feeling of despair, familiar to any student of the ends of Empires. Those adolescent symbols of manhood and virility! Those second-rate pictures! Those manuals of violence and repression! We are ruled by children, I thought, and all the agonies of state and ideology are only games for little soldiers.

At 3:30 next morning, before the dawn broke, there was a rap at my door, and looking out of my hotel window I saw two National Guardsmen pacing around the deserted patio far below. I feared the worst—perhaps they had put me on film down at the colonel's bunker?—and, jumping swiftly back into bed again, took my usual emergency action and pulled the sheets over my head.

Nothing more happened, but still for a moment I had experienced the chill uncertainty that is the worst part of autocracy. The Panama Situation, like many another experience of late imperialism, is especially disturbing because nobody knows what lies beyond it. What kind of a place will Panama be, if ever it is resolved? Will the traveling prove more gratifying than the arrival? The revolutionary government is a government of pragmatic response, rather than original initiative. Beyond a generally reformist or populist bias it has no true ideology of its own. If it has a communist emphasis, and certainly several of its civilian members have Marxist sympathies and backgrounds, that is partly because in imperialist situations communism habitually thrives. General Torrijos himself has invested in that least Marxian of properties, an estate in Spain (bought indeed, I am told, from the widow of Cuba's fascist reactionary colonialist puppet, Batista). Stylistically his models have varied from Moshe Dayan to Fidel Castro, and in recent pictures he looks for all the world like any other Pentagon general posing for a publicity handout. Ideologically he probably belongs, if he belongs to any company, only to the eclectic society of the dictators, living more by charisma than conviction. He does not often appear in Panama City these days, preferring his seaside estate some 60 miles out of town; but his bodyguard is always thick around his villa in the capital, and in his trellissed garage there one may see his gleaming white Jaguar, ready perhaps for hasty getaways.

All these uncertainties, though, these unexpressed yearnings and expectancies, these unsatisfied aspirations, the very tone and temperament of modern Panama, find their focus in the presence of the Canal. It is the alien-controlled Canal which has, paradoxically, deprived the Panamanians of their vocation and their self-esteem; it is the Canal which binds them together; it is the Canal which enables the dictator to command their loyalty and pride.

Colonia Americana . . . No! runs the chorus of one of the regime's official Revolutionary Marches:

> Es nuestro el Canal
> No somos, ni seremos
> Di ninguna otra Nación.

—"We are not, nor shall we be, of any other nation." For in a world turned upside down since Teddy Roosevelt's day, the Panamanians look with an evergrowing resentment toward the imperial presence deposited, like some vast pyramid from earlier ages or a survivor from some vanished species, gigantically in the middle of their little state.

III. THE IMPERIALISTS

The Republic of Panama grants to the United States all the rights, powers and authority within the zone mentioned and described in Article II of this agreement . . . which the United States would possess and exercise if it were the sovereign of the territory within which said lands and waters are located to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority.

The American presence in Panama is based upon two abstractions: power and pride. Both are inescapable. For most of its length the Canal Zone, 553 square miles of it, is remote from large Panamanian settlements, but at its two extremities its border forms the limit of a Panamanian city. Suddenly, across a city street, or at the end of an avenue, the Latin jumble of life evaporates, the rickety dark tenements disappear, the rubbish-strewn gutters give way to almost obsessively tended lawns and everything is plumper, richer, duller—as if these streets, the Panama poet Manuel Orestes Nieto has written, and their stop lights/and highway signs/ were controlled by computers/from Washington itself. In the days of that other Empire, the British Raj in India, Englishmen of imagination often liked to escape from the ordered incorruptibility of their own territories into the jumbled domains of the independent and often atrocious maharajahs; and I must say that whenever I crossed the unmarked frontier out of the Republic of Panama into the Canal Zone, I felt I was taking a retrograde step, out of reality into pretense.

An impressive pretense, mind. The Panama Canal is exceedingly well run, to a textbook precision. The United States Defense Department not only operates the Canal itself, it also governs the Canal Zone. In its representatives are all virtue and authority delegated. The governor of the Zone, usually a lieutenant-general of engineers, is also president of the Panama Canal Company. The company may sound like a corporation, and indeed a representative of the *New York Times* was down there recently soliciting its advertising, but it is really wholly owned by the Defense Department: Its toll rates are decreed by Washington and are supposed to cover the cost of working the Canal. There is no private property in the Canal Zone and no private commerce: Even the supermarkets are government owned, and when you expect a Zone TV program to break for soap powder or shampoos, instead you get advice about calling the Fire Brigade, or elevating messages about the history of the 193rd Infantry.

It is a terribly institutional place, run so authoritarianly that there is not even a school board, let alone an elected legislature. Its judges, its radio announcers, its storekeepers, its railwaymen, its funeral parlor managers are one and all government servants. It is thick with notices, mostly prohibitive—Consumption of Alcoholic Liquor in any Vehicle is Prohibited, Swimming Is Not Permitted between Dawn and Dusk—and even its friendly neighborhood signs are apt to have an organizational flavor, like Welcome to the Dredging Division. The Canal Zone is intensely *bland*. Panamanians often find it stifling in its pallor. Its architecture is mostly a kind of Hispanic Beaux Arts, and most of its buildings seem to look more or less the same, whether they are Lock Control Stations or Mrs. Dugdale's residence, but the governor's house is very desirable in white clapboard, with flower-painted fans and awned patios, while the headquarters of the company and government, standing magnificently on a crest above the company town of Balboa, looks half like the Forbidden City of Peking, and half like a post office (there is a large statue of Theodore Roosevelt in its central rotunda, and when I offered to wipe its nose, the cleaning lady being untable to reach that high, she said, "Yeah, he does get kinda snotty").

This is a truly imperial enclave, jammed with expertise and experience. It has been doing the same job for 60 years now and it all goes with a very professional smoothness. The great lock gates swing smoothly open. The sluices spill their overflow. The tugs adeptly maneuver. The pilots, leaning from their bridges as they pass through the locks, murmur a pleasantry over their walkie-talkies or wave a languid hand to Joe in the control tower. Down at marine headquarters the great register of vessels builds up year by year, so that the computer knows not simply the size, speed and shape of a ship, but the way she handles to, her mechanical idiosyncracies, even the kind of meal the pilot is likely to get. Well oiled, well practiced, well documented—the Canal Zone Regulations fill 314 pages of the Federal Code—the mechanism has come to seem organic, as though the passing of the vessels is a natural phenomenon and the locks are no more than steps in the landscape or a convenient kind of cascade.

Teddy was right, though—it really was one of the world's great works when they built it long ago. It was cut through some of the nastiest country in the world, so unhealthy that 25,000 men are said to have died during the construction of the Panama Railroad, infested with noxious insects and jealous reptiles, lethal with malaria and yellow fever, tangled with jungle and soggy with swamp. It entailed building the biggest dam in the world to create the largest man-made lake, digging the largest excavation in history through the Continental Divide and raising and lowering ships, by the largest locks ever conceived, 85 feet up at one end of the canal, 85 feet down at the other. The very idea of the canal was inspiring: Goethe himself had responded to the poetry of it, long before, and James Bryce, the historian, called it "the greatest liberty man has ever taken with nature."

Everything, Balboa on the Pacific to Cristobal on the Atlantic, was made to a pattern, giving the work an aesthetic unity too—Frederick Law Olmstead, the creator of New York's Central Park, approved the landscaping—and method, consistency, care, were embedded into the Canal's very structure, making it a kind of philosophical enclave, too, in that tropical environment. Everything was self-sufficient, self-reliant; only one percent of the labor force was Panamanian, and the Canal was built almost without reference to the Panamanian government. The Canal's own surgeons eradicated yellow fever from the Zone, having discovered that it was caused by mosquitos.

The Canal's own engineers invented the electric "mules" which, like land-borne tugs or the horses of earlier waterways, manipulated ships through the locks. And through all the great work, which took ten years to complete, there ran that conscious thread of American destiny, as the skills, guts and dollars of the United States drove the great ditch through the Divide to link sea with shining sea. It was a deliberately imperial enterprise. They called one of the construction towns Empire.

Almost from the start, too, the Americans saw it not just as a waterway, but as a power base. This was inevitable. Just as the possession of Suez enabled the British to keep a grip on the whole Middle East, so Panama was America's key to the command of the Americas. It obviated the need for a two-ocean Navy and it gave the Washington strategists an invaluable foothold in Latin America. They have never looked back. American forces have been based in the Canal Zone since 1911, and since 1963 Quarry Heights, just over the Zone border outside Panama City, has been the headquarters of United States Southern Command, responsible for all American military activities in Central and South America.

There is no pretending that this base is there for the defense of the Canal itself, as the original treaty allowed. Its purpose is

strategic, a command post for the whole of Latin America, a staging point, a training camp, a military laboratory. Every kind of military establishment has used the Canal Zone, from medical research teams to intelligence agencies, and today it teems with activities overt and concealed and bristles with military acronyms—USARSA and IAAFA and COMUSNAVSO, MILGPs and MAAGs and MTTS and TATs. Here the army has its Jungle Training School. From here the Green Berets dispatch their counterinsurgency training teams throughout Latin America: Among their most successful pupils were the Bolivian rangers who hunted down Che Guevara. Here, too, is the School of the Americas, specializing in counterrevolution (or as the military put it, "internal security and civic action requirements"); its alumni include many a Latin American security chief, war minister and intelligence director, and it is particularly busy at the moment training Chileans to keep their country in order. There are schools of Air Force technique too, and tropical laboratories of several kinds, and from the Canal Zone are coordinated all the contingency plans for American affairs, with or without the help of the CIA.

For within the Zone, in the very heart of Latin America, the American establishment may do what it pleases. It is like having a room of one's own, with one's very own lock and key, and a private telephone line, inside one's neighbor's house. The hills around Quarry Heights bristle with masts, aerials and suggestive bumps, and are tunneled through, like Gibraltar, with secret caverns; and whenever I looked up to those grassy knolls, beyond the parklike lawns of Balboa, the royal palms and the monument to Colonel George Washington Goethals Erected by His Fellow Americans—whenever I looked up there, I seemed to hear the hum of the ciphered messages, on their way to Washington, and see the wary flicker of their electronics.

These are reasons, right or wrong, for the American presence in the Canal Zone. Below them lie emotions. "It is not the critic that counts," Theodore Roosevelt cried when he visited the Canal in 1906. "The credit belongs to the man who is actually in the arena; whose face is scarred by dust and sweat and blood; who knows the great enthusiasms, the great devotions, so that this place shall never be with those cold and timid souls who know neither victory nor defeat. . . ." This kind of rhetoric, imperfectly enunciated, still infuses the Americanism of the Canal Zone. Deeper by far than the goings-on of Green Berets or MILGPs lies an old American pride in achievement. This gives the Zone community a very old-fashioned, almost touching air, a nostalgic assertion of myth that is a kind of mirror image of Panamanian aspirations across the border—the one people hungering for a chimerical fulfillment, the other pining for a half-legendary past. The average age of American civilians in the Zone strikes me as fairly high and their affinities are often with the South, with New Orleans, which is almost the Canal's home port, so to speak, with Louisiana upon whose laws the Zone's legal system is patterned. They are likely to be patriots, Veterans of Foreign Wars, Bicentennialists, people of the Flag and the Oath, family men, lodge members. They read the Panama edition of the *Miami Herald* over cheeseburgers in government canteens, and award second prizes to artifacts called Things and Strings in exhibitions of work by the National League of American Penwomen. Their husbands attend the Nathanial J. Owens Branch of the American Legion. Their daughters go to proms. They are unlikely to read ROLLING STONE. They are not Ugly Americans, not at all, but you might judge them, well, *plain*, perhaps.

I have much sympathy for them, for in all these attitudes they are only being true to themselves. They have been brought up to believe that they are serving a great American institution, the Panama Canal. It is as American in their eyes as Kleenex or George Wallace, and for them it reflects the American genius, the American dream, as truly today as it did when the first ship sailed through it. There is a plaque in the headquarters rotunda put up there in 1955 by the American Society of Engineers. "A Modern Civil Engineering Wonder of the U.S.," it says of the Panama Canal, and never for a moment does it suggest that the Canal is not in the U.S. at all. Americans built it, Americans run it, Americans own it; many of its American employees seldom enter the Republic of Panama from one year to the next—there used to be a policeman who boasted he had never set foot in the place for 30 years. Of the 15,000 people who work the Canal today, 12,000 are Panamanians, but none of them are senior executives and only two of the 200 Canal pilots are local men. The Panama Canal remains what it always was: a self-sufficient self-reliant, self-perpetuating American organism.

And this conviction is accentuated by the unchanging nature of the Canal itself. In fact it is fast getting out of date, being too small for many modern ships, so that the big container vessels have to squeeze their way through the locks like Victorian dames in bustles edging their way through drawing-room doors. There have long been plans to build a newer bigger one, probably without locks at all, but in the meantime the Canal still works exactly as it always did, often with its original equipment. The original dials and gauges, familiar to generations of American operators, still record the rise of the lock water in the high control towers. The electric mules still trundle archaically up and down, Japanese built in their latest models but still doing precisely the same job they always did. It is a very dated wonder and this adds a true pathos to the pride its servants have in it. They live in a world where Big is still Beautiful, where engineering marvels can still move the spirit, where a statistic is still believed, and you can still raise a gasp with the revelation that the stone handled in the construction of the Panama Canal would be enough for 28 Giza pyramids, or 190,438 average American homes, Manifest Destiny is alive, well and rather endearing in the duplexes of Balboa and Cristobal.

IV. THE CONFRONTATION

There they stand then, at the end of 1975, the classic opponents in an archetypal performance of Empire. They have been opponents from the start, even since it dawned upon the Panamanians that the 1903 Treaty had robbed them of a birthright, but the animosity has built up steadily through the years, through the brave American heydey, through the chicaneries of banana republic and conglomerate, through the ignominies of Vietnam and Watergate—through a whole era of history in which imperialism as an idea has been discredited, and America as an imperial power has lost faith and persuasion.

The Panamanians now demand an altogether new relationship. They do not, at the moment anyway, demand the immediate withdrawal of American power from the Zone; but they want the arrangements to end altogether by the year 2000, and in the meantime they want to see the Canal gradually handed over to Panamanian control, they want substantial parts of the Zone given back to them and they want Panamanian sovereignty fully recognized. There is absolutely no way in which they can enforce these demands physically, the disparity between the two peoples being as great as ever—140 to 1. Today for the first time, though, they may well enforce them diplomatically, for Panama now has behind her the support of many countries and the threat of many more. In January she again becomes a member of the United Nations Security Council, and from that vantage point she can make the Panama situation one of the blazing issues of the later Seventies.

When the British were fighting to keep control of Suez, the antagonism was complete, Britons and Egyptians having very little in common, seldom mixing, and pursuing diametrically opposite aims. In Panama it is different. For one thing, though the Canal Zone forms so distant an enclave within the Republic, still it is not physically insulated. Anyone can cross from one side to the other. There are no barriers, check points or wire fences, not even a cordon sanitaire (though in Panama City the wide highway called Avenida de los Mártires does form an unfortunate sort of No Man's Land, avidly photographed for TV documentaries, between the lawns of Quarry Heights and the fetid tenements of El Chorrillo). Many Panamanians commute from the Republic to the Zone—some Americans, too. There have been thousands of intermarriages over the years, so that for myself, as I wandered around the Zone, I often found it hard to know whether a cop, a functionary or even a soldier was American or Panamanian.

The cultures overlap, as the British and the Egyptian never did: Half America has grown up with the awareness of a Spanish past and all Panama has grown up with the consciousness of a gringo present. These antagonists are anything but strangers. They know each other very well. indeed, and have more in common than they care to admit.

Then again, though Panamanians prefer not to recognize the fact publicly, they share many self-interests. General Torrijos would not be the chief he is without his American military training. Colonel Noriega perfected his machismo at the School of the Americas. The National Guard is armed with American weapons and advised by an American military mission (MAAG, I think, or it may be MILGP): When its battalion went to the Middle East, every item of its equipment was supplied by the United States, even down to the *socks*. The revolutionary government itself might well have been overthrown by now were it not for tacit American support (interspersed, they tell me, by CIA threats to have the chief of state contracted for, but then we all know how effective *they* are).

Economically, it pays Panama handsomely to be within the American orbit, and especially perhaps beneath the guns of the Canal Zone. The U.S. dollar is official currency, the Panamanians never having printed their own banknotes, and it is unlikely that US-SOUTHCOM would never let the Republic disintegrate into chaos; but the Panamanians impose few prissy restrictions on exchange, interest rates or accessibility, so that the canny investor in Panama City can enjoy the best of many worlds. Wherever you look in the capital there is a foreign bank or a company headquarters, and the Panamanian flag is so particularly convenient that more than 1000 merchant ships, nearly all American owned, gratefully fly it. Panama enjoys the highest living standards in Central America and there is no denying that this is partly because the Americans are there.

So it is an amorphous emergency, blurred at the edges, slow in coming. There have been the customary riots now and then, the standard breaking of Embassy windows, the normal breaking of diplomatic relations, the usual student protests. The Avenida de los Mártires was renamed for Panamanian students killed in a 1964 affray—it used to be called Fourth of July Avenue. There have been several attempts to replace the Treaty. and it has been repeatedly modified, each time to give the Panamanians a little more self-respect or a little more cash; but only now is the confrontation really coming to a head, each side knowing that if a limit is

not soon set upon the American presence in Panama, real trouble is on the way.

In February 1974 Henry Kissinger and Juan Tack, the Panama foreign minister, agreed to open negotiations and listed eight principles which both accepted—among them Panamanian sovereignty and jurisdiction in the Zone, and an end to the iniquitous concept of "perpetuity": Any new treaty would have a terminal date. Since then talks have straggled on, mostly in secret, sometimes in Washington, sometimes on the Panamanian island of Contadora (a resort being exploited, appropriately perhaps, by Spanish developers). On the American side intentions remain veiled, Dr. Kissinger himself letting slip, last October, that he really thought the American military must remain in Panama "indefinitely." On the Panamanian side they are very clear: The Americans must be out of Panama altogether in 25 years, leaving the Republic of Panama in complete control, technically, economically and militarily, of the Most Gigantic Engineering Undertaking since the Dawn of Time.

If you drive from Panama City to Colón, along the highway magnificently called the Carretera Transistmica, you are traveling more or less parallel with the Canal, without entering the Canal Zone (for a Treaty modification of 1955 kindly allowed the Panamanians to have a road of their own across the isthmus). Everything is highly Panamanian. The villages you pass through are cheerfully wayward, littered with 7-Up signs, buses with pictures, banana-sellers' booths and ravaged, abandoned automobiles. The country is jungly, hummocky and unlovely. There is a kind of aimless shabbiness to it all, shambled, benevolent but not picturesque. At one or two places, though, a side road will take you to a vantage point above the Canal itself, and there, spread out before you between the hills, you may see an almost allegorical antithesis. There the tiled houses of the Americans nestle in their gardens. There the big ships sail across Gatun Lake, their high funnels and superstructures gliding grandly among the islands. There are the trim installations of USGOG or AMPLIG or COMSWAM. There everything seems cool, ordered, prosperous and private. It is like looking through the lodge gates at some unapproachable estate.

The Panama Situation, like so many of its kind, is embodied in *contrast*. Of course not all the Americans of the Canal Zone are stinking rich—none of them indeed are as rich as rich Panamanians. They are, however, undeniably exclusive and they have made the Zone a world of their own. Once you cross that Zone border, though you may be only 100 yards from your own home, nothing is Panamanian. The signs, the systems, the language, the ambiance—all are American. If you are caught speeding, you will be taken before an American judge in an American court. If you need a cup of coffee, you will be unable to buy one without a Zone card. The Stars and Stripes fly everywhere—only since 1964 has the Panama flag flown within the Zone, and even now it does not often show. It is the apparency of it all that is so provocative. It so happens that in Panama City, a spit of the Zone protrudes directly in front of the Legislative Palace, so that while the Legislature is within the Republic, the lawns before it are in the Zone. On that very spot the Zone authorities, every morning of the year, hoist the American flag—in tandem, indeed, with the Panamanian, but giving the distinct impression, to foreigners as to touchier Panamanians, that they claim a tacit suzerainty not just over the Zone but over Panama itself.

In fact the Americans are not sovereign even within the Zone. Even M. Bunau-Varilla did not allow for that. They are the owners of the Canal Zone soil, just as a householder owns the title to his garden, and they possess all the rights of government, the Panamanians having specifically given up all claim to power or authority. But the United States was given those rights, even in 1963, only *"as if it were the* sovereign of the territory." America did not acquire the Canal Zone in the sense that she acquired Alaska, say, or Hawaii. She enjoys no sovereign right of cession or conquest, which is why the Zone never became a territory of the United States. The American presence in Panama is analogous only to the Treaty Ports of prerevolutionary China, where the several powers, while dimly recognizing the sovereignty of the Celestial Kingdom, ruled themselves and the local citizenry by their own laws and with their own authority. And just as the foreign garrisons, clubs, parks and department stores of Shanghai now seem like images of another age, so the American presence in the Canal Zone is already one of history's anachronisms.

Legally the Americans might maintain the status quo indefinitely. "We own this place," as one Canal Zone resident explained it to me, "it's as simple as that. It's ours for all time. It's a bit of America." Perhaps even a court of law, though, would not hold Panama to such an agreement, concluded in such doubtful circumstances, in such different times. The 1903 Treaty is a true text of the Imperial Age, presupposing that Western civilization would dominate mankind for centuries: But only a Frenchman and an American, perhaps, deciding between them the entire future of a third country, could make its provisions, like Rome herself, actually *eternal!* Even Hitler envisaged only a 1000-year Reich! Even Churchill, contemplating the British Empire's finest hour, gave it only a millenium!

I did not myself meet a single citizen of the Panamanian Republic who wished the Americans to remain in the Canal Zone. In this if in nothing else they are united, and it was a fierce critic of the Torrijos regime, in fact, who joked to me that when they took over the Zone, what she wanted was the governor's house. Their motives vary, of course. There are Communists who hope to shift the balance of the world, opportunists who hope to make fortunes, politicians who hope to consolidate their power, above all hundreds of thousands of plain patriots. All are agreed, though, as the natives nearly always are in this stage of the imperial performance: The imperialists must go.

And again as always, the imperialists themselves are split. The State Department is committed to Treaty revision, and the chief U.S. negotiator, the octogenarian Ellsworth Bunker, has said frankly that the United States "no longer can be—nor would want to be—the only country in the world exercising extraterritoriality on the soil of another country."

The Defense Department holds very different views and may be expected to defend to the last its conviction that command of the Zone is essential to the security of the Free World. As for the American residents of the Canal Zone, they long ago formed their own pressure group, Keep the Canal American, and are busy lobbying congresspeople, writing letters to editors and rallying comrades everywhere.

That air of expectancy I noticed in Panama City extends to the Canal Zone too. Things, one feels, are coming to a head. Life is quite enough now, there having been no student disturbances for a month or two, but one senses an impending air. Generals and diplomats come and go. The governor is summoned to Washington. Reporters fly in for feature articles, and rumors proliferate. They say the U.S. Army was all set to enter Panama City, when the students broke the USIS windows in October. They say Schlesinger was really fired because of Panama—"Well, it's obvious, isn't it?" They say the Chinese have offered to build a new canal, when they're through with the Tanganyika railroad. Didja hear about Torrijos and the Cuban deal? Didja hear about the booing at the ballet? Who's the guy with the little black moustache talking to the ambassador?

It is like the cadenza, before the full orchestra enters with the grand theme, and in this case the full orchestra plays in Washington. Enter the Imperial Factor, as the British used to say. Far away in America, one feels, busy minds are at work upon the Panama Situation, and as a presidential election approaches, the aides and the lobbyists are at work. For years your true-blue Americans have been denied a truly imperial cause. Befuddled by Vietnam, betrayed by the CIA, bewildered by the Third World, defused by détente, messed about by Kissinger, antagonized by a generation that hardly seemed to understand the meaning of patriotism, not since World War II, or at least the Berlin Airlift, have they discovered a foreign field that can be forever America.

Perhaps Panama offers them just that cause, just that stirring issue? All over America the Minutemen are stirring, hastening to the call: the retired brigadiers and superannuated admirals, the John Bichers, the Daughters of the American Revolution, the irreconcilable exiles, the shrewd campaign managers. Old habits die hard, old emotions too. Already 37 senators have introduced a resolution demanding that the United States should "in no way cede, dilute, forfeit, negotiate or transfer" any of its rights in Panama. Senator Strom Thurmond has declared that the surrender of "sovereignty" in the Canal Zone is simply "not a negotiable item."

Representative Daniel Flood has said that even Kissinger's concession of principles was "an unconstitutional giveaway by faceless wonders in striped pants." Ronald Reagan has let it be known that, as his campaign aide put it, "we don't have any business giving away the Panama Canal—giving up sovereignty." For years after the end of their rule in India the British still thought of the Suez Canal as the Lifeline of Empire, so deeply instilled was this conception in the national consciousness; and deep in the American psyche too, only waiting to be exploited, is the same sense of imperial possession—what we have we hold, we've been kicked around long enough, here's where we stand and fight.

There is sadness to these emotions because they cannot win. They are expressed by imperialists only when it is too late anyway, when conviction is already faltering, when the world has gone too far. Of course there is logic to the conservative arguments. The Canal may *not* be run as well, when the Americans move out. Perhaps Communists *will* take over. It is perfectly true that the American presence has brought benefits to Panama, from thousands of jobs to pure water. True, too, that in retreating from Panama the United States will be, in effect, abdicating its supremacy throughout Latin America—even perhaps, it could be argued, abdicating its status as a world power.

Yet it is all too late! These are the arguments of Empire and the world has moved on. The very nature of power has changed since 1903. It has become far subtler, more precarious abstraction, dependent upon imponderables the old Empire builders could scarcely have imagined, and even today's Pentagon planners are reluctant to recognize student opinion, for instance, the Third World, the urban guerrillas, investigative reporting, oil money, nuclear deterrents. A Russia might be able to hang on to the Panama Canal by sheer force: An America never can. Already the Panamanians have mobilized much of the world in their support—when the Security Council met in Panama City in 1973, the U.S. had to veto a resolution calling for a new treaty. Every single Latin American government is united

behind Panama, a remarkable testimonial in itself.

What is more, time is running short. Ford and Kissinger, of course, will want to prolong the negotiations as long as they can, to keep Panama out of the 1976 election; but within Panama, Torrijos is allegedly being urged to more precipitate action, by the more ferocious of the nationalists, by the Communists, by the student extremists. His own demands are moderate but he may not be able to keep them so: If the Americans, for reasons political or emotional, refuse to give in within a reasonable time, the Panama Situation can inflame the world, like Suez before it, like Vietnam.

> Take up the White Man's Burden,
> And reap his old reward
> The blame of those ye better
> The hate of those ye guard!

You must not suppose that I do not understand. I know the glory of the distant flag! I have heard the bugles call! From the island of Perico, at the Pacific end of the Canal, there is a magnificent view of Panama Bay and the Canal entrance. From there the scene looks immensely powerful. The city straggles eastward along the shore, ramparted and steepled at one end, skyscrapered at the other; the lawns and villas of the Canal Zone, topped with aerials and ringed around by harbor installations, run away to the west. The high steel arch of the Bridge of the Americas takes the Pan-American highway magnificently across the waterway, and through the humpbacked islands offshore, sometimes green and blue in the sunshine, sometimes black with sudden rainstorms, ships are always moving, steadily and silently out of the Pacific.

High on the flank of Perico, shut off by wire fences and severe injunctions (trash and litter generated in this area will be deposited in yellow trash cans) there stands an observation post, the first American station on the Pacific side; it's probably been there since the Canal was built. Its platforms are open-fronted and it perches on the hillside with a campaigning air, a hammocky, mosquito-net, semaphore and heliograph, sepia. Sam Browne air. I could not see if anyone was actually on watch beneath its eaves, when I went out there on my last afternoon in Panama, but I was powerfully moved anyway by the spectacle of that ever loyal lookout, ever watchful, ever faithful down the years. What generations of Americans looked proudly out from there, in the days when American power really was the hope and glory of the world! It seemed to me to stand in the truest line of the imperial monuments, the best of the genre, the line of the Khyber and Hadrian's Wall, the Saharan forts and the Venetian castles—the kind that make you wonder what kind of men once served their Empire there, how bravely they stood their ground, and how gratefully, when the time came, they pulled the flag down and departed.

TWO PRESIDENTS VISIT AUSCHWITZ

Mr. JAVITS. Mr. President, on July 29 of this year, President Ford visited the site of the former Nazi death camp in Auschwitz. His visit there was preceded by that of President Giscard d'Estaing of France on June 18. On the occasion of both visits, the youngest survivor of the holocaust, Dr. Samuel Pisar, a U.S. citizen by special act of Congress—Public Law 87-37, 1961—made a brief address. I believe that Dr. Pisar's statement is simple and yet moving.

I believe that it is important to keep in mind that there are hundreds of millions in other countries that continue to share our fundamental human values and our abhorrence of barbaric and malevolent threats to those basic values. If we needed a reminder we have witnessed it recently at the United Nations in the effort to equate Zionism with racism.

I ask unanimous consent that the statement of Dr. Pisar at Auschwitz be printed in the RECORD for the reading of all Senators.

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

STATEMENT

(By Dr. Samuel Pisar)

To return at your side, Mr. President, to this altar of the holocaust, where as a boy of 14 I died so many deaths, lived so many tortures and humiliations, where all I ever loved was reduced to cinders, is an experience that staggers the soul. But it is also a journey from tragedy to triumph. By your presence here today, the date on which from London, 35 years ago Charles de Gaulle's call to resistance redeemed the honor of France, you add a new dimension to the historic meaning of the 18th of June.

From here, Mr. President, you speak to generations, to races, to nations, to ideologies, to liberal and conservative, to rich and poor, to East and West. For the spot on which you stand is the deepest wound ever inflicted upon human civilization, the inferno where Eichmanns' realism eclipsed Dante's vision of hell.

On this I bear you the personal testimony of a rare survivor, perhaps the youngest survivor of all. Among the unspeakable reminiscences that flood my mind in these once familiar surroundings, one heartbreaking image stands out, and it is the only one about which I would like to say a word.

Near those machine-gun towers, in their striped blue and white rags, sat every day the most remarkable symphony orchestra ever assembled. It was made up of the greatest virtuosos from Warsaw and Paris, from Kiev and Oslo, from Budapest and Rome. The precious violins they brought along on their last journey were signed Stradivarius, Guarneri and Amati. To accompany the daily hangings and shootings—while the gas chambers over there belched fire and smoke—they were ordered to play Mozart, the Mozart you and I adore.

Enough of the past!

These horrors, which I have never mentioned to you in the years of our friendship devoted to seeking together new avenues of international coexistence, new weapons of peace, must not numb our senses, nor shake our faith in God and man. If they seem relevant today it is because we dare not forget that the past can also be prologue, that amidst the ashes of Auschwitz we behold the true specter of doomsday—a warning of what might still lie ahead. It is to this barbed wire fence, therefore, that man must come, in emulation of your example, to bow his head and meditate on justice, on tolerance on respect for human rights and, most of all, on new moral perspectives that can reclaim the world's alienated youth.

Mr. President, in this cursed and sacred place you are facing your greatest audience. Here you stand in the presence of four million innocent souls. In their name, and with the authority of the number engraved on my arm, I say to you that if they could answer your noble words they would cry out: "Never again"!! Never again between Frenchman and German, between Turk and Greek, between Indian and Pakistani. Never again between Arab and Jew.

In their name I thank you for your pilgrimage to this shrine of martyrdom and agony. Your gesture inspires universal hope that the statesmen of the world will pay new heed to the clouds of violence that are gathering around us. That they will spare no effort to lead us to a safer and better future.—SAMUEL PISAR, Auschwitz 1975.

THE PANAMA CANAL

Mr. McGEE. Mr. President, in the Sunday edition of the Washington Star, there appeared an excellent analysis of the reasons why the United States is negotiating a modern treaty relationship with the Government of the Republic of Panama concerning the status of the Panama Canal.

The article was written by our chief negotiator, Ambassador Ellsworth Bunker, and is entitled: "Baring Panama Canal Myths." Ambassador Bunker is recognized as the premier negotiator and one of our most capable and talented career diplomats.

The Ambassador has articulated the substantive issues concerning the treaty negotiations, and the reasons for such negotiations, in a very effective manner. The Panama Canal has always been shrouded in myth and a perpetuation of these myths does not serve the national interests of the United States.

The Ambassador spells out the issues and the consequences of a failure on our part to negotiate a new treaty relationship with Panama and subsequent Senate ratification of such a document. I would urge my colleagues to give serious consideration to the Ambassador's article.

I ask unanimous consent 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 Washington Star, Dec. 14, 1975]

BARING PANAMA CANAL MYTHS

(By Ellsworth Bunker)

The Panama Canal negotiations have evoked emotion, controversy and opposition. But I am convinced that much of this opposition stems from a number of false impressions about the basis for our presence in the Canal Zone.

Political realities make it desirable, in my judgment, to bring the negotiations to an early and satisfactory conclusion.

But our presence in the canal has a constituency among the American people—while our negotiations to solve our problem there do not. So, if we are to gain support, we must find it through candid and reasonable public discussion.

Our story begins 72 years ago. In 1903 the newly independent Republic of Panama granted to the United States—in the Hay-Bunau-Varilla Treaty—a strip of land 10 miles wide and 50 miles long for the construction, maintenance, operation, and protection of a canal between the Atlantic and Pacific.

The treaty also gave the United States—in perpetuity—the right to act within that strip of land as "if it were the sovereign."

It was quickly and widely acknowledged that the treaty favored the United States. When Secretary of State John Hay submitted the treaty to the Senate for ratification he said:

". . . we shall have a treaty very satisfactory, vastly advantageous to the United States and, we must confess, not so advantageous to Panama."

For many years Panama has considered the treaty to be heavily weighted in our fa-

vor. As a result, the level of Panama's consent to our presence has steadily declined. And by Panama, I mean not simply the government, but the Panamanian people.

The Panamanians point out:

First, that the existence of the Canal Zone impedes Panama's development. The Canal Zone cuts across the heartland of Panama's territory, dividing the nation in two. The existence of the zone curbs the natural growth of Panama's urban areas; it holds, unused, large areas of land vital to Panama's development; it controls all the major deep-water port facilities serving Panama; and it prevents Panamanians from competing with American commercial enterprises in the zone. For the rights we enjoy on Panamanian territory, we pay only $2.3 million a year.

Second, that the Canal Zone infringes on Panama's nationhood. Panama says the privileges exercised by the United States deprive their country of dignity and, indeed, of full independence. Within the Canal Zone the United States operates a full-fledged government without reference to the Government of Panama, which is its host. It maintains a police force, courts, and jails to enforce U.S. laws, not only upon Americans, but upon Panamanian citizens as well. And, the Panamanians point out, the treaty says the United States can do all these things forever.

Panamanian frustration over this situation has increased steadily over the years, as shown by the riots and demonstrations of January 1964.

In our negotiations, we are attempting to lay the foundations for a new—a more modern—relationship which will enlist Panamanian cooperation and better protect our interests.

Unless we succeed, I believe that Panama's consent to our presence will continue to decline—and at an ever more rapid rate. Some form of conflict in Panama would seem virtually certain, and it would be the kind of conflict which would be costly for all concerned.

We should understand that the canal's physical characteristics make it vulnerable. The canal is a narrow channel 50 miles long. It operates by the gravity flow of water and depends for its efficient operation on an integrated system of locks, dams, and other vital facilities. At best, it is susceptible to interruption, and interruptions would mean reduced service to world shipping and lower revenues.

But the most enduring costs of confrontation over the canal would not be commercial. Our Latin American neighbors see in our handling of the Panama negotiations a test of our political intentions in the hemisphere. Moreover, the importance of the canal, and our contribution to it, are recognized throughout the world. It is a measure of the respect in which we are held that people everywhere expect the United States to be able to work out an arrangement with Panama that will guarantee the continued world community. We can, I suggest, create operation of the canal in the service of the an example for the world of a small nation and a large one working peacefully and profitably together.

Were we to fail—particularly in light of the opportunity created by the negotiations so far—we would in a sense be betraying America's wider, long-term interests.

The plain fact of the matter is that geographically, history, and the economic and political imperatives of our time compel the United States and Panama to a joint venture in the Panama Canal. A new arrangement based on partnership promises a greater assurance of safeguarding our interest in a canal that is open, safe, efficient, and neutral.

The real choice before us is not between the existing treaty and a new one but rather between a new treaty and what will happen if we should fail to achieve a new treaty. These, then, are some of the political realities we face in Panama.

We must face political realities here at home as well. We know that a treaty must receive the advice and consent of the Senate of the United States. And we expect that both houses of Congress will be asked to approve implementing legislation.

There is opposition in Congress to a new treaty; it reflects to a considerable degree the sentiments of many citizens. Our job is to make sure that the public and Congress have the facts they need if they are going to make wise decisions about the canal.

Unfortunately, the basis for our presence in the zone is widely misunderstood. Indeed, a number of myths have been built up over the years—about Panama's intentions and capabilities, about the need for perpetuity, and, most important, about ownership and sovereignty. We need to replace these myths with an accurate understanding of the facts.

First, there is the matter of Panama's intentions and capabilities—and the suggestion that a new treaty will somehow lead to the canal's closure and loss. The fact is that Panama's interest in keeping the canal open is far greater than ours. Panama derives more income from the canal than from any other single revenue-producing source.

Even so, some argue, canal operations would suffer because Panamanians lack the technical aptitude and the inclination to manage the operation of the canal enterprise. No one who has been to Panama and seen its increasingly diversified economy can persuasively argue that the Panamanians would not be able to keep the canal operating effectively and efficiently.

And Panama's participation in the canal can provide it with a greater incentive to help keep the canal open and operating efficiently.

In fact, the most likely avenue to the canal's closure and loss would be to maintain the status quo.

Second, there is the notion that the canal cannot be adequately secured unless the U.S. rights there are guaranteed in perpetuity—as stipulated in the 1903 treaty.

I can say this: To adhere to the concept of perpetuity in today's world is not only unrealistic but dangerous. Our reliance on the exercise of rights in perpetuity has become a source of persistent tension in Panama. And clearly, an international relationship of this nature negotiated more than 70 years ago cannot be expected to last forever without adjustment.

Indeed, a relationship of this kind which does not provide for the possibility of periodic mutual revision and adjustment is bound to jeopardize the very interest that perpetuity was designed to protect.

Third and finally, there are two misconceptions that are often discussed together: ownership and sovereignity. Some Americans assert that we own the canal; that we bought and paid for it, just like Alaska or Louisiana. If we give it away, they say, won't Alaska or Louisiana be next?

Others assert that we have sovereignty over the Canal Zone. They say that sovereignty is essential to our needs—that loss of U.S. sovereignty would impair our control of the canal and our ability to defend it.

I recognize that these thoughts have a basic appeal to people justly proud of one of our country's great accomplishments. The construction of the canal was an American achievement where others had failed; every bit as great an achievement for its era as sending Americans to the moon is for ours.

But let us look at the truth about ownership and sovereignty. The United States does not own the Panama Canal Zone. Contrary to the belief of many Americans, the United States did not purchase the Canal Zone for $10 million in 1903. Rather, the money we gave Panama then was in return for the rights which Panama granted us by the treaty. We bought Louisiana; we bought Alaska. In Panama we bought not territory, but rights.

Sovereignty is perhaps the major issue raised by opponents of a new treaty. It is clear that under law we do not have sovereignty in Panama. The treaty of 1903 did not confer sovereignty, but speaks of rights the United States would exercise as "if it were the sovereign."

From as early as 1905, U.S. officials have acknowledged repeatedly that Panama retains at least titular sovereignty over the zone. The 1936 treaty with Panama actually refers to the zone as "territory of the Republic of Panama under the jurisdiction of the United States." Thus our presence in the zone is based on treaty rights, not on sovereignty.

It is time to stop debating these historical and legal questions. It is time to look to the future, and to find the best means for assuring that our country's real interests in the canal will be protected.

What are our real interests?

We want a canal that is open to all the world's shipping—a canal that remains neutral and unaffected by international disputes;

We want a canal that operates efficiently, profitably, and at rates fair to the world's shippers;

We want a canal that is as secure as possible from sabotage or military threat; and

We want fair treatment for our citizens in the Canal Zone.

The negotiations we are now conducting with Panama for a new treaty will insure that all these interests of our country are protected.

In early 1974 Secretary of State Kissinger went to Panama to initial with the Panamanian foreign minister a set of eight "principles." The best characterization of these principles came from the Chief of Government of Panama. He said they constitute a "philosophy of understanding." Their essence is that:

Panama will grant the United States the rights, facilities, and lands necessary to continue operating and defending the canal; while

The United States will return to Panama jurisdiction over its territory; and arrange for the participation by Panama, over time, in the canal's operation and defense.

It has also been agreed in the principles that:

The next treaty shall not be in perpetuity but rather for a fixed period;

The parties will provide for any expansion of canal capacity in Panama that may eventually be needed; and

Panama will get a more equitable share of the benefits resulting from the use of its geographic location.

Since then, major issues have been identified under each of the principles, and we have reached agreement in principle with the Panamanians on three issues:

Jurisdiction. Jurisdiction over the zone area will pass to Panama in a traditional fashion. The United States will retain the right to use those areas necessary for the operation, maintenance, and defense of the canal.

Canal Operation. During the treaty's lifetime the United States will have the primary responsibility for the operation of the canal. There will be a growing participation of Panamanian nationals at all levels in day-to-day operations in preparation for Panama's assumption of responsibility for canal operation at the treaty's termination.

The Panamanian negotiators understand that there are a great many positions for which training will be required over a long period of time and that the only sensible course is for Panamanian participation to begin in a modest way and grow gradually.

Canal Defense. Panama recognizes the im-

portance of the canal for our security. As a result, the United States will have primary responsibility for the defense of the canal during the life of the treaty. Panama will grant the United States "use rights" for defending the waterway; and Panama will participate in canal defense in accordance with its capabilities.

Several other issues remain to be resolved. They concern:

The amount of economic benefits to Panama;

The right of the United States to expand the canal should we wish to do so;

The size and location of the land and water areas we will need for canal operation and defense;

A mutually acceptable formula for the canal's neutrality and nondiscriminatory operation of the canal after the treaty's termination; and

Finally, the duration of the new treaty.

Quite obviously, we still have much to do to resolve these issues. Although we have no fixed timetables, we are proceeding with all deliberate speed. We are doing so with the full support of the Department of Defense. Indeed, our most senior military officials regard the partnership we are attempting to form as the most practical means of preserving what is militarily important to our country respecting the Panama Canal.

America has always looked to the future. In the Panama Canal negotiations we have the opportunity to do so again:

To revitalize an outmoded relationship;

To solve an international problem before it becomes a crisis; and

To demonstrate the qualities of justice, reason, and vision that have made and kept our country great.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous agreement morning business is closed.

ECONOMIC RIGHTS OF LABOR IN THE CONSTRUCTION INDUSTRY—CONFERENCE REPORT

The ACTING PRESIDENT pro tempore. Under the previous order, the hour of 10 a.m. having arrived, the Senate will now proceed to the consideration of the conference report on H.R. 5900 which the clerk will report by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5900) to protect the economic rights of labor in the building and construction industry by providing for equal treatment of craft and industrial workers, 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 ACTING PRESIDENT pro tempore. 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 RECORD of December 8, 1975, at page 39119.)

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. WILLIAMS. Mr. President, as Members of the Senate know, there are two titles to this bill as it passed the Senate. On the one hand there is title II which introduces a new pattern for collective bargaining to the building and construction industry and which will undoubtedly have long-term effects on labor-management relations in that industry. There can be no doubt that it is a worthy experiment and I believe it will be a singular contribution to the health of that industry.

I am pleased to say the committee on conference adopted title II of the bill as it passed the Senate with only minor technical amendments.

With respect to title I, however, there were more considerable disagreements and, therefore, this review will begin by discussing the three major points of contention in that title.

The House bill would have gone into effect after 90 days with respect to all construction. Title I of the Senate bill would not have been applicable to construction work which was contracted for and actually begun on or after November 15, 1975.

This difference was resolved by making title I applicable to such construction but delaying its effective date depending on the gross value of the construction work already underway on November 15, 1975. Where that gross value is $5 million or less, the effective date is 1 year after the effective date of title I, that is, 90 days plus 1 year after the date of enactment.

With respect to construction work of a gross value of more than $5 million, the effective date is delayed by 2 years, that is, 90 days plus 2 years after the date of enactment of the bill.

The purpose of the provision in the Senate bill is to protect owners who had already entered into contracts for construction work with the general contractor and the general contractor who had already contracted out work to subcontractors, so long as the contract was let out and the work had begun prior to November 15, 1975.

The conferees arrived at the solution that I have just outlined on the understanding that a substantial majority of the work contracted for and begun prior to November 15 could be complete within the insulated period that was provided for in conference. Moreover, the conferees were influenced also by the advisability of providing a clear and definite cutoff date in order to avoid the serious administrative difficulties that would otherwise have been encountered.

The House bill was applicable to construction regardless of its character. The Senate bill excluded from the provisions of the bill construction of the residential structures of three stories or less without an elevator.

This difference was resolved by adopting a new section 8(j) which makes the protection for common situs picketing granted by the bill applicable to the construction of three levels or less when it is performed by a general contractor or owner-developer—whom we refer to throughout this section as the employer—who has not in the preceding year performed $9.5 million of gross volume of construction, whether residential or commercial, or otherwise in his own capacity, or with or through any other person.

The purpose of this exception was stated by the sponsors in this body to be for the protection of small businesses, and the $9.5 million figure was chosen because it is the definition of a small contractor as determined by the Small Business Administration.

In order to account for changes in the value of money, this figure will be subject to annual adjustment by the Secretary of Labor. This will exempt approximately 80 percent of contractors involved in the construction of all types of residential housing.

Because the intent is to protect genuinely small businesses, in harmony with the general philosophy and method of the bill, it is the contractors' gross volume in any capacity in any construction enterprise in which he enjoys "the power of common ownership or financial control." The standard to be applied "for evaluating such exercise of power," is as properly stated by the Court of Appeals, for the District of Columbia Circuit "whether, as a matter of substance, there is the arm's length relationship found among unintegrated companies."

The House bill provided that common situs picketing could be directed at the employees "of the employers primarily engaged in the construction industry."

Title I of the Senate bill provided that such picketing could be directed at the employees of any "person".

The conferees agreed on the House language with an amendment so that the bill now provides that picketing may be directed at the employees of "any employer primarily engaged in the construction industry on the site."

In committee, we rejected the House language on the theory that it would undermine the rule that is stated in *Steelworkers* v. *Labor Board*, 376 U.S. 492, a 1964 decision known as the Carrier case.

During the conference, it became clear that we had misunderstood the intention of the House. The House language was designed simply to assure that an industrial employer engaged in painting, renovation, or repairs of his own premises with his own employees would not be affected by the change in the law made by H.R. 5900. It was also intended that the bill would leave untouched an industrial employer who engages in the construction of an addition to his own plant or other facility, and who acts as his own general contractor, and, not through a subsidiary or subdivision devoted to construction work, who mans the construction job with a work force primarily composed of his own regular long-term employees and not individuals hired only for that project.

That was the intent of the House as it was explained by Members of the other body in our meeting in conference and as is stated in the manager's report and is further amplified on the floor by the gentleman from Minnesota, Mr. QUIE.

The gentleman from Minnesota was the conferee most instrumental in convincing the Senate conferees to ac-

cept the House language with the amendment that I have already noted.

With this understanding it became clear to us that this limitation on the reach of H.R. 5900 is similar to the other legislative compromises that were made in the bill: Those relating to the construction of residential structures by small contractors, to employers who received work under State separate bidding laws, and to work done by organized industrial employees on a construction site.

Mr. President, the Denver Building Trades decision permitted employers to manipulate corporate forms and thereby to all but extinguish the right of construction workers to appeal to each other in the effort to maintain their union status and union standards. None of the exemptions to the bill permit that form of manipulation. Moreover, as the statement of the managers indicates, the laws declared in the Carrier case remain undisturbed.

The right to appeal to all those approaching the site of a primary dispute "whose mission is selling, delivering, or otherwise contributing to the operations which a strike is endeavoring to halt," rests on the "primary picketing" proviso added to the law in 1959. That proviso and the law construing that proviso which the Supreme Court has developed are not altered.

Thus, after the provisions of title I have been added to section 8(b)(4), picketing of a separate gate reserved for deliverymen will be a violation only if the deliveries are destined solely for an employer or employers who are neutrals rather than for primary employers in the dispute.

The House's desire not to have H.R. 5900 apply to the industrial employers doing work on their own premises with their own employees that I have described did not appear to the Senate conferees to be an unreasonable one. We, therefore, acceded to that desire.

But the right to use the primary picket line at the site of the dispute to "apply economic pressure by halting the day-to-day operations which the strike is endeavoring to halt"—and its corollary that picketing "becomes illegal secondary activity only when it interferes with business intercourse not connected with the ordinary operation of the employer"—is at the heart of the act. We could not in good conscience have compromised that principle, and we did not do so.

Thus, on every major issue the Senate conferees were successful in preserving the essential provisions of the Senate bill, and doing so without permitting their dilution. This is true also of the less critical matters as to which there was a disagreement between the House and the Senate.

In general, both titles I and II of the Senate bill embodied substantial drafting and structural improvements. As I have indicated, almost every one of these was accepted in conference.

The result is the conference report embodies legislation which is tighter, more carefully defined, and somewhat more limited in scope than either House or Senate bills.

The compromises have had been accomplished without undermining the basic principles stated in both title I and title II of the legislation.

To cite one instance, during the floor debate, the Senator from California (Mr. CRANSTON) and I discussed the impact of the bill when a dispute occurs on a construction site at a Veterans' Administration hospital. I wish to assure the Senate that the understanding stated in that colloquy is preserved in the conference report.

Mr. President, this measure more than meets the specifications President Ford requested when he met with some of us last July to discuss these issues.

The bill contains the situs picketing amendments in title I. Title II of the bill contains the collective-bargaining amendments, and these are virtually as presented by the administration.

Moreover, there are additional restrictions on the situs picketing approval that should be noted as placing limitation on the use of this right that were not included in the bill as introduced.

Mr. President, I believe Congress has met its commitment to the President, and I certainly hope the President will see fit to honor his agreement and approve this measure with the amendments it now contains.

Mr. President, I noted in my earlier remarks that title I of this bill would have the effect of adding to the complexity of the already labyrinthine section 8(b)(4) of the National Labor Relations Act. Moreover, title II of the bill introduces novel procedures to assist in the peaceful settlement of disputes in the construction industry.

Mindful of our responsibilities as the sponsors of this legislation, the able ranking minority member of the Committee on Labor and Public Welfare, the most able and distinguished Senator from New York (Mr. JAVITS) and I have prepared a section-by-section legal analysis for presentation to the Senate at this time, together with a summary of that analysis stated in layman's terms. Only a few prefatory remarks to the section-by-section analysis appear to me necessary at this point. Title I is addressed to the problems created by the Supreme Court's decision in the Denver Building Trades case. In drafting and explaining this legislation, we have attempted to focus on that problem. However, an exact correlation between the scope of the Denver case and the scope of the law made by title I of H.R. 5900 has not proved possible. There are several reasons for this.

First, the Denver Building Trades decision is part of the overall body of secondary boycott law. To make clear what economic activity is permitted by the bill, we have been required to place this legislation in its context.

Second, title I does not simply overrule the Denver Building Trades decision. During the course of the legislative process we have accepted certain limitations and exceptions to the right to engage in what is deemed primary activity under the bill. In order to define the scope of these limitations and exceptions, it has been necessary for us to address subjects somewhat far afield from that of secondary boycotts.

Third, where judicial or administrative interpretation has left the present law uncertain, we have felt it necessary to state our understanding of the original legislative intent, in order to assure that this bill be interpreted according to what we regard to be the correct view. On the other hand, we have taken pains at some cost to legislative brevity to make clear that the unfair labor practice provisions not dealing with secondary boycotts remain intact. And, of course, since the focus of the bill is on work at construction sites, those unfair labor practices which were not intended to relate to that industry—the basic prohibition of section 8(e), its companion 8(b)(4)(A) and the original section 8(g) remain unchanged. But, in every instance we have limited ourselves to issues squarely raised by the expanded scope of legislation itself. To make sense of the resulting complex whole, it will be helpful to restate the essential principle underlying all that we have done.

Senator TAFT explained the purpose of the original prohibition against secondary boycotts as being to protect a third person "who is wholly unconcerned in the disagreement between an employer and his employees." While the performance of the Board and the lower courts in applying this "primary-secondary dichotomy" has not always been faithful to the neutrality principle, the dichotomy has been correctly understood and applied by the Supreme Court from the *General Electric* decision 366 U.S. 667 through *NLRB* v. *Operating Engineers*, 400 U.S. 297. That dichotomy was reaffirmed in explicit statutory terms in the primary picketing proviso to section 8(b)(4)(B) which informs the whole law of secondary boycotts. See for example, the *National Woodwork case*, 386 U.S. 612, 624, 632–633.

The governing philosophy of the bill is to restore to this law of secondary boycotts a test of neutrality in the construction industry which depends upon the economic realities of the industry independent of corporate form or identity, or whether for some reason, the general contractor chooses to engage a subcontractor to perform work. The Denver Building Trades case, which gave insufficient weight to the interdependence of all the contractors on a construction site, is disapproved. The general contractor and the subcontractors who are engaged at the construction site are to be treated as a single person for the purpose of the secondary boycott provisions of the act.

In essence, a primary dispute with one is to be deemed as a primary dispute with all. The workers' right to engage in primary activity carefully preserved in sections 7 and 13 of the act should not be subject to diminution by concerned employers' internal and external business arrangements. This same approach has governed in working out particular compromises.

Most notably, the compromise reached in the conference to exempt some light residential construction from the bill provides that in determining a general

contractor's gross volume of construction, work done "in his own capacity or with or through any person" shall be included. To cite just one other example, precisely to prevent industrial or retail employers from taking advantage of the decision not to permit inducement of employers not "primarily engaged in the construction industry on the site" to become a little more than normal general contractors, the House language in this regard was agreed to only pursuant to the understanding that the construction work could not be done through the normal construction industry pool of craftsmen or by utilizing a corporate subsidiary or subdivision that is mainly devoted to construction work.

Normally, the building trades reserve the picketing weapon for the protection of their work rather than to support their wage demands. Thus, it is appropriate to note that the motivating policy of H.R. 5900 is to permit the building trades to utilize their economic weapons in order to combat the depression of their working conditions and the undermining of their organization by nonunion employers. The following represent the paradigm class of situations in which picketing against all the contractors on the situs shall be lawful. First, picketing to protest the general contractor's use of one or more nonunion subcontractors; second, picketing by a union or union which represents some or all of the general contractor's employees in support of a demand for an agreement requiring the general contractor to use only union subcontractors for onsite work; finally, picketing to protest the payment of substandard wages or the maintenance of substandard working conditions.

Mr. President, I ask unanimous consent that this analysis and summary be printed at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. WILLIAMS. We have also prepared a detailed statement in reply to a recent legal memorandum concerning S. 1479 which was prepared by two lawyers in response to a request by the Senator from Nevada (Mr. LAXALT), a member of the committee. That memorandum, which we believe includes several erroneous statements concerning the bill has received wide circulation and has been reported in the press. It is our view, therefore, that we also have an obligation to respond to these statements at this time.

Mr. President, I ask unanimous consent that our rebuttal to this document, together with a copy of the document itself be printed at the conclusion of my remarks.

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

(See exhibit 2).

Mr. WILLIAMS. Mr. President, I will yield the floor at this time, but I will say that I know there are members who support the legislation and who were active in conference who will at a not too much later time seek recognition.

EXHIBIT 1

EXPLANATION OF THE CONFERENCE AGREEMENT ON H.R. 5900

H.R. 5900 both modifies construction union picketing rights and reforms collective bargaining in the construction industry. Title I establishes the right of construction workers to picket effectively in support of lawful goals in a labor dispute. Under Title II, the process of collective bargaining in the construction industry has been restructured to make it more responsive to the need for stable labor-management relations.

Under Title I of the bill, construction workers will have the right to picket an entire construction site, just as workers are now permitted to picket entire manufacturing, warehousing, and other types of job sites.

The bill conforms construction industry picketing rights with the original intent of the secondary boycott provisions of the Taft-Hartley Amendments to the National Labor Relations Act. It overrules administrative and judicial case law that misinterpreted that intent for nearly 25 years. This case law is based upon a 1951 Supreme Court ruling that the general contractor and subcontractors on a building site are separate businesses; therefore, they are to be treated as neutrals with respect to each other's labor controversies. Accordingly, under present law a union having a controversy with one subcontractor cannot picket the other contractors and subcontractors at the job site without engaging in a prohibited secondary boycott.

In most cases, in fact, a construction project is a single, coordinated and integrated economic enterprise. Contractors and subcontractors are jointly engaged in a common venture. The daily tasks of one are closely related to the normal, day-to-day operations of all others at the site. Thus, the employers who are working together at a construction site are not the uninvolved neutrals in each other's labor disputes that the Taft-Hartley Amendments were designed to protect and they should not be treated as such for purposes of the secondary boycott provisions.

The basic purpose of the bill is to bring the law into conformity with this reality. In essence, the legislation merely states that contractors and subcontractors are to be treated as an integrated enterprise and that, when there is a labor dispute, the union having the dispute is to be allowed to engage in normal, peaceful primary picketing at the entire site of the dispute.

In order to insure that this permission does not include activity that is presently unlawful, the bill explicitly states that it is not to be construed to permit picketing of an entire construction site when:

The labor dispute is "unlawful under this Act (National Labor Relations Act, as amended) or in violation of an existing collective bargaining contract" between the picketing employees and their employer;

The object is to force another union's members off the job;

It discriminates against any employee on the basis of sex, race, creed, color, national origin, labor union membership or because union membership has been denied or terminated;

The picketing is for the purpose of committing any other unfair labor practice as defined in Section 8(b) of the Act;

The picketing is for the purpose of engaging in a "product boycott."

The bill also provides that where picketing at a construction site is carried on for the purposes of organization or recognition, the NLRB must conduct an expedited election, and certify the results thereof, within 14 days after a petition and a charge have been filed.

One major exemption is included in the bill. Contractors engaged in building residential structures and whose gross volume of construction for the preceding taxable year was $9.5 million or less, will be exempted from the provisions of the legislation on sites involving structures of "three residential levels or less."

In order to minimize labor strife at construction sites and to encourage peaceful resolution of disputes, the legislation provides a cooling-off period during which the international union and Federal mediators can use their best efforts to resolve the dispute. Thus, the amendment prohibits picketing of an entire site until:

The striking union has given 10 days advance notice to all employers and labor organizations engaged at the site to the international labor organization with which the local is affiliated, to the general contractor, and to the National Construction Industry Collective Bargaining Committee;

(In event the site is a military facility) 10 days advance notice also has been given to the Federal Mediation and Conciliation Service, to any equivalent State agency, and to the government agencies concerned with the particular facility; *and*

The striking union has received written authorization from its parent national or international union.

Further, the bill also restricts what would otherwise be valid primary activity in order to recognize overriding competing interests. Therefore, it does not permit common situs picketing:

Against employers who have been awarded separate contracts pursuant to the requirements of State separate-bidding laws regulating public construction, or

Where there is an organized employer at the construction site who is not primarily engaged in construction work at the site, e.g., an industrial employer. (In this situation, his employees may enter the site through a separate gate, and that gate may not be picketed), or

To induce any individual to strike whose employer is not engaged primarily in the construction industry on the construction site other than those making deliveries, etc. at the site to such employers with whom there is a primary dispute.

The bill also specifically affirms the authority of the courts to enjoin picketing in violation of no-strike agreements over issues which are subject to resolution through final and binding arbitration.

Finally, Title I of H.R. 5900 exempts construction work on which work had actually begun on November 15, 1975 in the following manner:

Construction work valued under $5 million shall be exempted for the first year after the effective date;

Construction work valued over $5 million shall be exempted for the first two years after the effective date.

In sum, Title I contains a carefully designed and limited right to engage in primary activity for workers in the construction industry comparable to that which the National Labor Relations Act permits in other sectors of the workforce.

Title II of H.R. 5900 contains provisions designed to reform collective bargaining in the construction industry by establishing a national focus on contract negotiations. Collective bargaining in the construction industry has been traditionally marked by fragmented and sometimes divisive bargaining procedures. While in large part this fragmentation is the result of the nature of the industry itself, a national coordination of

such bargaining will improve both its effectiveness and its success.

To accomplish this goal, the bill establishes a Construction Industry Collective Bargaining Committee, to be comprised of twenty-three members appointed by the President, ten members representing construction contractors, ten members representing national construction unions, and three members of the public. The Secretary of Labor and the Director of the Federal Mediation and Conciliation Service (FMCS) shall also serve as ex-officio members.

The CICBC will exert direct influence over collective bargaining in the construction industry by requiring that all contract modifications and terminations become subject to review at its discretion. This process will take place in the following manner:

The CICBC must be notified 60 days prior to any contract modification or termination;

All national unions with which local unions are affiliated, and national employer organizations must also be given similar notice;

Within 90 days after the receipt of the notice of either contract termination or modification, the CICBC may assume jurisdiction over the issue;

If the CICBC takes such jurisdiction, during the 90-day period it will then work with the appropriate national unions and employer organizations to achieve a peaceful resolution of the dispute;

Once the CICBC has assumed jurisdiction and requested the participation of the international union the appropriate national or international union must approve any ensuing negotiated contract by a local union unless the CICBC withdraws such approval power.

In order to allow the collective bargaining process a chance to work effectively, during the time that CICBC has jurisdiction over a pending dispute, a mandatory "cooling-off" period is provided for.

There is no intention to establish compulsory arbitration under the provisions of Title II, or to give the CICBC authority to dictate terms and conditions to local unions in their bargaining process. However, the CICBC, by invoking jurisdiction under this Title, can act to mediate labor disputes between local unions and employers, and to involve both national unions and national employers organizations in the bargaining process. This function will, in itself, provide for more thorough and more careful bargaining, thereby increasing its effectiveness.

In sum, it is the intention of Title II of the Senate substitute to interject a body, the CICBC, with a national view of labor-management relations in the construction industry, into the local bargaining process to allow that process to flow more smoothly, and, at the same time to provide a dispassionate arbiter of local disputes.

SECTION-BY-SECTION LEGAL ANALYSIS OF H.R. 5900

TITLE I—TO PROTECT THE ECONOMIC RIGHTS OF LABOR IN THE CONSTRUCTION INDUSTRY

A. Section 101(a): Section 101(a) of H.R. 5900 takes the form of numerous additional provisos to Section 8(b)(4)(B) of the Act. The most important, and the major operative provision of the bill, is the first of these which will, upon enactment, become the third proviso to Section 8(b)(4)(E).

1. In order to facilitate a complete understanding of the effect that this main proviso added to Section 8(b)(4)(B) by H.R. 5900 will have in permitting picketing and strike activity at the common situs of a construction project, it is helpful to begin by examining various phrases of that proviso independently. The proviso states:

Provided further, That nothing contained in clause (B) of this paragraph (4) shall be construed to prohibit any strike or refusal to perform services or any inducement of any individual employed by any employer primarily engaged in the construction industry on the site to strike or refuse to perform services at the site of the construction, alteration, painting, or repair of a building, structure, or other work and directed at any of several employers who are in the construction industry and are jointly engaged as joint venturers or in the relationship of contractors and subcontractors in such construction, alteration, painting, or repair at such site.

(a) The phrase *"Provided further*, That nothing contained in clause (B) of this paragraph (4) shall be construed to prohibit any strike or refusal to perform services or any inducement of any individual employed" is intended to reach all the means set forth in Section 8(b)(4)(i) and (ii) of the Act. The phrase "employer primarily engaged in the construction industry" within the foregoing was contained in H.R. 5900 as it passed the House and was accepted by the Conference with an amendment adding the words "on the site."

This language is designed simply to assure: that an industrial employer engaged in painting, renovation, or repairs of his own premises with his own employees would not be affected by the change in the law made by H.R. 5900; and, that the bill would also leave untouched an industrial employer who engages in the construction of an addition to his own plant or facility, who acts as his own general contractor and not through a subsidiary or subdivision devoted to construction work who mans that construction job with a work force made up predominantly of his regular long-term employees and not individuals hired only for that project. That was the House's intent as explained in Conference, and as stated in the manager's report, and as further amplified on the floor by the gentleman from Minnesota [Mr. Quie], the conferee who was instrumental in convincing the Senate conferees to accept the House language as amended. Of coures, as Mr. Quie noted to the House, if an employer is deemed "primarily engaged in the construction industry on the site" because of his "resort to the normal construction industry pool of craftsmen," this does not mean that his entire industrial facility may be picketed because of a dispute on the common construction sites. He loses the benefit of this exemption only as to the construction work, i.e. "the work of these craftsmen."

Thus, this limitation on the reach of H.R. 5900 is of a piece with the other legislative compromises that were made in the bill—those relating to the construction of residential structures by small contractors, to employers who receive work under States' separate bidding laws, and regarding work done by organized industrial employees on a construction site. The *Denver Building Trades* decision permitted employers to manipulate corporate forms and thereby to all but extinguish the right of construction workers to appeal to each other in the effort to maintain their union status and union standards. None of the exemptions to the bill permit that form of manipulation.

Moreover, as the statement of the managers indicates, the law as declared in the *Carrier case*, 376 U.S. 492 (1964) (*Carrier*) remains undisturbed. The right to appeal to all those approaching the site of a primary dispute "whose mission is selling, delivering or otherwise contributing to the operations which a strike is endeavoring to halt" (*id.* at 499) rests on the "primary picketing" proviso added to the law in 1959. That proviso and the Supreme Court law construing it are not altered. Thus, after the provisions of Title I have been added to Section 8(b)(4), picketing of a separate gate reserved for deliverymen will be a violation only if the deliveries are destined solely for an employer or employers who are neutrals rather than primary employers in the dispute.

(b) The phrase "at the site of the construction, alteration, painting, or repair of a building, structure, or other work and directed at any of several employers" adopts the language used in the construction proviso to section 8(e) of the Act which was added in 1959. Here, as there, this language is used only to distinguish work at construction sites from all other types of work, as for example, at an industrial plant. The language does not confine the activity permitted by the bill to a particular construction situs or require picketing on a situs-to-situs basis; in that sense too it is identical to what was intended by the construction proviso to section 8(e). The limitation of common situs picketing to the particular construction situs at which the dispute arises is created by other language, discussed in paragraph 2(b) of this analysis and is not present in the construction industry proviso.

(c) The phrase "and directed at any of several employers who are in the construction industry and are jointly engaged as joint venturers or in the relationship of contractors and subcontractors in such construction, alteration, painting, or repair at such site" describes those who will be treated as a single person by virtue of the bill.

The phrase "in the construction industry" is also adopted from the construction industry proviso to section 8(e). The remainder of this clause makes clear that it is those who are jointly engaged as "joint venturers" or as "contractors and subcontractors" in the construction, etc., at such site, who are to be treated as a single person. Where the construction site is at an industrial plant (for example, an addition to a manufacturing facility), the owner of the plant will not be treated as a single person with the general contractor who is engaged to perform such construction work, or any of that general contractor's joint venturers or subcontractors. In that situation, when the dispute is with the owner of the plant and the owner establishes a separate gate for the construction workers picketing in support of that dispute against the owner of the facility can be conducted at that gate if and only if the contractors and their employees are engaged in tasks which aid the owner's every day operations. See the *General Electric* case, 366 U.S. 667, 681. Likewise, if the dispute is with the general contractor or one of the subcontractors, the owner of the industrial facility may, by establishing a separate gate for the construction employees confine the picketing to that gate and thereby insulate his own employees from that picketing. As explained in detail above (in paragraph 1(a)), certain industrial employers doing construction work on their own premises will also be permitted to set up a separate gate for their own employees doing construction work.

A special problem of application will arise in situations involving the development of a large, multi-faceted construction project such as a shopping center complex, an urban renewal project or a government facility such as Cape Canaveral which includes both NASA's Kennedy Space Center and Patrick Air Force Base. In these situations it is not unusual for several general contractors, each using one of several subcontractors, to be employed in closely related work and in the same general location. Each of these contractors, however, may be engaged in building a totally separate facility within the parameters of the entire project.

If more than one general contractor is working on a multifaceted development involving distinct and unrelated projects then common situs picketing is not permitted

under S. 1479 except with respect to the single general contractor involved in the dispute and all of its subcontractors. If, however, separate general contractors are responsible for completion of an interrelated structure and the site can be considered one project then common situs picketing is permitted by S. 1479 with respect to all general contractors and their subcontractors.

Pursuant to the provisions of H.R. 5900 picketing may not be used to close down the entire site or project merely on the basis of a labor dispute with one of the contractors or subcontractors. The applicable test to determine whether the entire site may be closed down pursuant to the principles under H.R. 5900 is to identify whether the contractors or several employers in the construction industry are "jointly engaged" at the "site of construction, alteration, painting, or repair of a building, structure, or other work". In addition, the bill provides that "in determining" whether or not several employers are in fact "jointly engaged" at any site, "ownership or control of such site by a single person shall not be controlling."

Employers are engaged as joint venturers when the work each contracts to perform is related to the work contracted for by the other as part of an integrated building, structure, or other work; and the employees of one perform work related to the other. The "site" of any such work is at the geographical physical location where several employers are jointly engaged in the construction, alteration, painting or repair of a building, structure, or other work at such location, and where the employees of such employers, contractors, and subcontractors are engaged in interrelated work toward a common objective in geographical proximity to each other. This is in accord with the settled principle that the situs of a dispute with an employer is wherever he performs his day-to-day operations, be it an industrial plant, a fleet of trucks or one or more construction sites.

H.R. 5900 recognizes the economic reality that construction work on one part of a building, structure or other work is interrelated to work on other parts of a building, structure or other work. It therefore permits the union representing employees in one phase of the work to strike or picket at the construction site against several employers at that site who are jointly engaged as joint venturers or in the relationship of contractor and subcontractor when the strike raises over wages, hours, and other working conditions.

2. Other portions of Section 101(a) of the bill take the form of six further provisos to section 8(b)(4)(B) which may be conveniently considered together because, only with the exceptions to be noted, they are all designed solely to prevent the bill from being construed as a privilege to engage in conduct which is presently unlawful by reason of provisions other than the secondary boycott provisions of the law, or to forbid conduct which is presently lawful.

That such provisions relating to presently unlawful conduct add nothing to the law and are in that sense redundant was understood during the House debate on the next to last of the foregoing provisos in H.R. 5900. In urging the adoption of amendment he had proposed, Mr. Esch said:

"Mr. Chairman, I will say, if the gentleman from Michigan will yield, that it is because of the inherent sloppiness of the method of developing legislation that I think this amendment, even though some may think it is redundant will help clarify it so that H.R. 5900 very clearly states that in no way does it go beyond the intent of sections 8(a)(3) and 8(b)(2) and thus protect the individual employee in this regard."

These six provisos read as follows:

"*Provided further*, That nothing in the above proviso shall be construed to permit a strike or refusal to perform services or any inducement of any individual employed by any person to strike or refuse to perform services in furtherance of a labor dispute, unlawful under this Act or in violation of an existing collective bargaining contract, relating to the wages, hours, or other working conditions of employees employed at such site by any of such employers, and the issues in dispute involve a labor organization which is representing the employees of an employer at the site who is not engaged primarily in the construction industry: *Provided further*, Except as provided in the above provisos nothing herein shall be construed to permit any act or conduct which was or may have been an unfair labor practice under this subsection: *Provided further*, That nothing in the above provisos, shall be construed to prohibit any act which was not an unfair labor practice under the provisions of this subsection existing prior to the enactment of such provisos: *Provided further*, That nothing in the above provisos shall be construed to authorize picketing, threatening to picket, or causing to be picketed, any employer where an object thereof is the removal or exclusion from the site of any employee on the ground of sex, race, creed, color, or national origin or because of the membership or nonmembership of any employee in any labor organization: *Provided further*, That nothing in the above provisos shall be construed to authorize picketing, threatening to picket, or causing to be picketed, any employer where an object thereof is to cause or attempt to cause an employer to discriminate against any employee, or to discriminate against an employee with respect to whom membership in a labor organization has been denied or terminated on some ground other than his failure to tender the periodic dues and the initiation fees uniformly required as a condition of acquiring or retaining membership, or to exclude any labor organization on the ground that such labor organization is not affiliated with a national or international labor organization which represents employees of an employer at the common site: *Provided further*, That nothing in the above provisos shall be construed to permit any attempt by a labor organization to require an employer to recognize or bargain with any labor organization presently prohibited by paragraph (7) of subsection (b): *Provided further*, That if a labor organization engages in picketing for an object described in paragraph (7) of subsection (b) and there has been filed a petition under subsection (c) of section 9, and a charge under subsection (b) of section 10, the Board shall conduct an election and certify the results thereof within fourteen calendar days from the filing of the later of the petition and the charge:"

To facilitate a complete understanding of the additional provisos, the following additional comments are necessary:

(a) The term "labor dispute", as used in H.R. 5900 was deliberately chosen to track the broad language of section 2(9) of the Act, which in turn was adopted from section 13 of the Norris-LaGuardia Act, 29 U.S.C. section 113, and covers all disputes "relating to the wages, hours, or other working conditions."

(b) The phrase "of employees employed at such site by any of such employers" is intended to preserve the Denver rule and the prohibitions of section 8(b)(4) in a single narrow situation: where there is a dispute with a subcontractor which relates only to a single site, the union will not be permitted to treat that subcontractor as the same person as the general contractor and other subcontractors at other sites. For example, if a subcontractor is under contract with the union at several sites, but fails at one site to pay the wages due the workers, or fails at that site to adhere to some other provisions of the contract, the union may engage in common situs picketing only at the site. At other sites, the subcontractor will be treated as a different person from the general contractor and the other subcontractors and Denver Building Trades will continue to apply.

The subcontractor will still be subject to strikes and picketing at the other sites which was lawful even under Denver Building Trades, for example, picketing which complies with the standards declared in Sailor's Union of the Pacific, 92 NLRB 547 (Moore Dry Dock). But for this phrase the bill would have granted the right normally enjoyed by all unions to apply economic pressure against an employer with whom they have a dispute wherever he may be found, in order to halt his day-to-day operations. However, it was decided to restrict that right to engage in a primary strike as just described. Since section 13 declares that the Act shall not be construed "to interfere with or impede or diminish in any way" the right to strike as it was understood in 1947 "except as specifically provided" this limitation is stated explicitly. This decision represents a compromise designed to confine the picketing permitted in the bill to the situs at which the labor dispute arises in the one narrow situation in which it can be said that the dispute has a specific point of origin. Earlier provisions of the Act have taken account of the special conditions in the construction industry (see section 8 (e) and (f)). This is the first in which the protections granted are limited in any way to a particular job site.

As its language should make clear, the qualification contained in the phrase "of employees employed at such site by any of such employers," of course, does not affect the right granted in the bill to picket at all job sites at which a struck employer may be found where the origins of the dispute are not so confined. Thus, where there is a dispute between a union or group of unions and a general contractor over an agreement to apply at more than one site or on future jobs it will be lawful to treat that general contractor and his subcontractors as a single person wherever they are engaged in construction activity. The same rule will apply where there is such a dispute with a subcontractor.

(c) The phrase in the proviso "and the issues in the dispute involve a labor organization which is representing the employees of an employer at the site who is not engaged primarily in the construction industry" is to exclude from the protection of H.R. 5900 those disputes which involve a union which represents employees of an employer at the site who in general is not engaged primarily in the construction industry but who is so engaged on a particular site.

Here again the purpose is to write into H.R. 5900 a narrow restriction on the basic right to engage in primary picketing. And, in this instance as the prior one, the sponsors of the bill have agreed to a compromise designed to give recognition to a carefully defined competing interest. The logic of the overruling of Denever Building Trades would allow picketing to appeal to organized industrial employees at or approaching a construction site. However, in promoting the stability of established collective bargaining relationships with industrial employers and protecting the integrity of the "no-raiding" agreements that have been entered into by many unions, the most encompassing of which is contained in Article XX of the AFL–CIO Constitution, the sponsors, with the support of the labor movement, determined

not to write the bill in a manner that extends common situs picketing to its full extent.

In light of the use of the phrase "employers primarily engaged in the Construction Industry on the site" in the new third proviso to section 8(b)(4) added by this bill as it emerged from Conference, the office of the proviso presently under discussion is even more restricted than it was in the Senate bill. An example will describe both the function and the limitations of this phrase: if an employed is engaged by a contractor to install some specialized equipment as part of the construction project (for example, electrical or refrigeration equipment) and that employer utilizes his own regular employees who are represented by a labor organization for this installation, H.R. 5900 would permit the use of a separate gate for those employees that the construction union could not picket.

Of course if that same employer, however, retains a general contractor who is "primarily engaged in the construction industry" for the job, picketing would be allowed consistent with the principles of 366 U.S. 667 General Electric. The employer could, thereby, set up a separate gate for the construction workers and isolate his own employees from picketing.

(d) In the consideration of S. 1479, the Senate adopted an amendment by the Senator from Maine (Mr. Hathaway) which would explicitly preserve section 8(b)(7), but which would provide for prompt representation elections among the employees of an employer on a construction site when the certain conditions are met. This amendment applies only to the construction industry and in that industry only when the union seeking recognition is engaged in common situs picketing. The last of the foregoing provisos embodies that amendment, whose meaning was amplified by the statement of the managers.

As noted in the debate on the Senate floor, in order to expedite proceedings before the Board, it is intended that the unit in which the election is to be held is to be either all the employees or all the employees in a recognized craft, depending on the union's demand, of the picketed subcontractor at the picketed construction site. The result will be that if the union wins the election the contractor will be under a legal duty by virtue of section 8(a)(5) to bargain with the picketing union with respect to that unit; if the union loses the election it will be under a legal prohibition by virtue of section 8(b)(7)(B) against picketing that employer for recognition at that construction site.

(e) Both the House and Senate versions of the bill contained provisions, in differing form, designed to assure that common situs picketing could not be undertaken with the object of causing an employer to discriminate against an employee on the basis of union membership. The conferees were able to resolve their differences over these similar provisions only by retaining the language of both versions, with the understanding that they are to be given the meaning as expressed in the earlier legislative history of each body. That history is found in the report of the Senate Committee on Labor and Public Welfare on S. 1479, Sen. Rept. No. 94-938, at page 23-24 and in the House floor debate on H.R. 5900, *Congressional Record*, daily edition, July 25, 1975, at pages 24826-24828.

3. The last of the provisos to section 8(b)(4)(B) contained in section 101(a) of the bill reads:

Provided further, That nothing in the above provisos shall be construed to permit any picketing of a common situs by a labor organization to force, require, or persuade any person to cease or refrain from using, selling, purchasing, handling, transporting, specifying, installing, or otherwise dealing in the products or systems of any other producer, processor, or manufacturer. In determining whether several employers who are in the construction industry are jointly engaged as joint venturers at any site, ownership or control of such site by a single person shall not be controlling".

This provision resolved the controversy concerning product boycotts in the following manner: The distinction made in the *National Woodwork* case (386 U.S. 612) between primary product boycotts which are lawful, and secondary product boycotts which are unlawful, is preserved. However, it will be unlawful to enforce such a product boycott by engaging in picketing which has been illegal under the *Denver Building Trades* case, which will otherwise be lawful by virtue of this bill. Other forms of primary economic activity to enforce a primary product boycott, for example, picketing which satisfies the *Moore Dry Dock* standards, continue to be lawful. Thus, this last proviso, like other provisions of the bill, preserves the *Denver Building Trades* rule in a narrow class of situations.

4. Although the term "common situs picketing" is used informally to describe the kind of picketing which is protected by the bill, that term, properly applied, refers to picketing in a variety of situations, many of which have previously been lawful notwithstanding the *Denver Building Trades* decision. For example, where the employees of employers other than the struck employer are present, the situs of the dispute, whether that situs is an industrial plant or a fleet of moving trucks, a "common situs" situation arises. In many situations, picketing will be lawful under the decisions in *Carrier* or *General Electric*, or because the *Moore Drydock* rules apply and the picketing satisfies those standards. The restrictions on the permission granted by the third proviso to section 8(b)(4) of course are not intended to make unlawful any picketing which was previously lawful even given the *Denver Building Trades* decision.

B. Section 101(b): Section 101(b) of the bill adds to the National Labor Relations Act subsections 8 (h), (i), and (j), each of which is described in turn.

1. New subsection (h) to section 8 of the National Labor Relations Act provides special procedures for determining contractor and subcontractor relationships under those State Laws containing "separate-bid" requirements. Section 8(h) provides:

"(h) Notwithstanding the provisions of this or any other Act, where a State law requires separate bids and direct awards to employers for construction, the various contractors awarded contracts in accordance with such applicable State law shall not, for the purposes of the third proviso at the end of paragraph (4) of subsection (b) of this section, be considered joint venturers or in the relationship of contractors with each other or with the State or local authority awarding such contracts at the common site of the construction."

The laws of eight states require separate bids to be let to the lowest responsive bidders for certain categories of work on public construction jobs as follows: (1) for general construction; (2) for heating, ventilating and air conditioning; (3) for plumbing work; and (4) for electrical work.

H.R. 5900 provides that when construction jobs are contracted under authority of such laws those contractors shall not be considered as joint venturers or in the relationship of contractor and subcontractor. Additionally, H.R. 5900 provides that the state or local subdivision shall not be viewed as a joint venturer or contractor for the purposes of this Act. This is also supported by the requirement of that such employers must be in the construction industry.

The sole effect of Section 8(h) is to continue the rule of the *Denver Building Trades* case to protect the employers have been awarded separate contracts pursuant to the requirements of State bidding laws. However, picketing directed at those employers which was lawful even under *Denver*, for example, picketing which satisfies the *Moore Dry Dock* standards will remain lawful.

This narrow retention of the *Denver* rule was added as an accommodation to state procurement policies. Eight states require separate bidding and direct awards by the general and subcontractors to guarantee the integrity of the expenditure of public moneys. These laws have nothing to do with labor-management relations, and make it impossible for the contractors "by design or otherwise" (*Carrier*, 376 U.S. at 501) to arrange their affairs so as to insulate themselves from disputes in which they are economically concerned. State laws which have a labor management relations objective or which permit such manipulation are not within section 8(h). For, it is not intended to destroy uniformity in the national labor policy which favors the use of peaceful primary economic weapons as part and parcel of the process of collective bargaining (*Labor Board* v. *Insurance Agents*, 361 U.S. 477, or to permit employers to arrange their affairs so as to define or limit the scope of primary activity; *see also*, *Carrier*, 376 U.S. at 501.).

2. New subsection (i) provides:

"(i) Notwithstanding the provisions of this or any other Act, any employer at a common construction site may bring an action for injunctive relief under section 301 of the Labor-Management Relations Act (29 U.S.C. 141) to enjoin any strike or picketing at a common situs in breach of a no-strike clause of a collective bargaining agreement relating to an issue which is subject to final and binding arbitration or other method of final settlement of disputes as provided in the agreement."

The purpose of this provision is to codify with respect to strikes and picketing at a common situs the accommodation established in *The Boys Markets, Inc.* v. *Retail Clerks Union*, 398 U.S. 235 (1970) between the Norris-LaGuardia Act, 29 U.S.C. 101, *et seq.* and sections 203(d) and 301 of the Labor Management Relations Act (29 U.S.C. 141, *et seq.*). Here again, the placement of this section should not be construed to create a new unfair labor practice.

Thus where the parties to a collective bargaining agreement have provided for a method of "final adjustment" for the settlement of grievance disputes arising thereunder as to the application or interpretation of an existing collective bargaining agreement (See section 203(d)), the Courts may, notwithstanding the provisions of section 4 of the Norris-LaGuardia Act, in a suit under section 301 issue an injunction enjoining a work stoppage at a common situs. Such injunctive relief is available only where the stoppage is over a grievance which "both parties are contractually bound to arbitrate and provided also that the other conditions declared in *Boys Markets* are satisfied, and provided further that the procedural and equitable requirements of the Norris-LaGuardia Act are satisfied. *See Boys Market*, 398 U.S. at 253-254 and *Emery Air Freight Corporation* v. *Local Union 295*, 449 F. 2d, 586, 588-589 (2d Cir. 1971).

3. New subsection (j) provides:

"(j) The provisions of the third proviso at the end of paragraph (4) of subsection (b) of this section shall not apply at the site of the construction, alteration, painting, or repair of a building, structure, or other work involving residential structures of three residential levels or less constructed by an employer who in the last taxable year immediately preceding the year in which the determination under this subsection is made had,

in his own capacity or with or through any other person, a gross volume of construction business of $9,500,000 or less, adjusted annually as determined by the Secretary of Labor, based upon the revisions of the Price Index for New One Family Houses prepared by the Bureau of the Census, if the employer within 10 days of being served with the notice required by subsection (g)(2)(A) of this section notifies each labor organization which served that notice in an affidavit that he satisfies the requirement set forth in this subsection."

This provision was adopted by the Conference as a compromise between the bill as it passed the House which did not exempt any residential construction and the bill as it passed the Senate which exempted light residential construction.

The new § 8(j) makes the third proviso to § 8(b)(4)(B) inapplicable to the construction of residential structures of three residential levels or less when it is performed by a general contractor or owner developer (referred to throughout the section as the employer) who has not in the preceding year performed $9½ million of gross volume of construction, residential, commercial or otherwise in his own capacity, or with or through any other person. The purpose of this exception was stated by its Senate sponsors in this body to be for the protection of small business, and the $9½ million figure was chosen because it is the definition of a small contractor determined by the Small Business Administration. In order to account for changes in the value of money, this figure will be subject to an annual adjustment by the Secretary of Labor. While § 8(g)(2)(A) distinguishes between the general contractor and the other employers at the site, the term "employer" in § 8(j) refers uniformly and exclusively to the general contractor or owner developer if there is no general contractor.

This section is an exception to the benefit of small businessmen. It is not to be abused by the manipulation of corporate form. In determining gross volume, therefore, the NLRB and the courts are to attribute to a general contractor (or owner-developer) all amounts earned on construction in his own individual or corporate capacity and through any other entity in which he enjoys "the power of common ownership or financial control". The standard to be applied "for evaluating such exercise of power" is that stated in a decision treating this industry (*Local No. 627, Int. U. of Operating Eng.* v. *N.L.R.B.*, 518 F. 2d 1040 (D.C. Cir.)) which is, "whether, as a matter of substance, there is the arm's length relationship found among unintegrated companies."

C. *Section 101(c)*: Section 101(c) of the bill adds a new subsection 8(g)(2) to the Act which contains two notice requirements to the Act. By virtue of new section 8(g)(2)(C) these notice requirements are in addition to those presently provided in section 8(d), where 8(d) is now applicable. A failure to comply with section 8(g) will constitute a new unfair labor practice, subject to injunction under section 10(j) of the Act.

In administering § 8(g)(2), the Board should treat charges on a priority basis, move expeditiously to investigate those charges, and promptly seek injunctions under § 10(j) of the Act if it believes the issuance of a complaint is warranted. This is in accord with the intent in enacting the parallel provision, § 8(g)(1), see Sen. Rep. No. 93-766, 93rd Congress 2nd Session, PP. 4, 6-7. Because the Board's internal procedures for determining whether a § 10(j) injunction should be sought sometimes result in unnecessary delays, it is intended that, especially with respect to § 8(g) violations, the Board should modify these procedures so as to eliminate such delays.

Since there has been disagreement within the courts as to whether the standard for determining when a section 10(j) injunction should be granted is the same as the standard under section 10(l), it is intended that the courts in § 10(j) proceedings are to follow the same standard as in § 10(l) cases. The legislative judgment to make it discretionary for the Board to seek injunctions with respect to some unfair labor practices and mandatory with respect to others does not affect the judicial role when an application for an injunction is made. The language of § 10(j) dealing with the court's role is the same as the language of § 10(l): "Upon the filing of any such petition the court shall cause notice thereof to be served upon such person, and thereupon shall have jurisdiction to grant to the Board such temporary relief or restraining order as it deems just and proper."

It is helpful to describe separately the two situations in which this new unfair labor practice arises:

The new section 8(g)(2)(A) provides as follows:

"(2)(A) A labor organization before engaging in activity permitted by the third proviso at the end of paragraph (4) of subsection (b) of this section shall provide prior written notice of intent to strike or to refuse to perform services of not less than ten days to all unions and the employers and the general contractor at the site and to any national or international labor organization of which the labor organization involved is an affiliate and to the Construction Industry Collective Bargaining Committee: *Provided*, that at any time after the expiration of ten days from transmittal of such notice, the labor organization may engage in activities permitted by the third proviso at the end of paragraph (4) of subsection (b) of this section if the national or international labor organization of which the labor organization involved is an affiliate gives notice in writing authorizing such action: *Provided further*, That authorization of such action by the national or international labor organization shall not render it subject to criminal or civil liability arising from activities, notice of which was given pursuant to this subparagraph, unless such authorization is given with actual knowledge that the picketing is to be willfully used to achieve an unlawful purpose.

H.R. 5900 requires that not less than ten days prior to engaging in any primary activity as contemplated under the bill, the labor organization which seeks to engage in a strike, or a concerted refusal to perform services, must file a notice thereof before undertaking the activity to the following persons:

(1) to all unions representing employees employed at the site;

(2) to all employers engaged at the site and the general contractor at the site;

(3) to any national or international labor organization with which the movant union is affiliated; and

(4) to the Construction Industry Collective Bargaining Committee.

H.R. 5900 requires further that in order for the picketing to be undertaken, the national or international union with which the local union is affiliated must give notice, in writing, approving the proposed action by the local. Thus, in order for strike activity which is presently forbidden by the *Denver* ruling to be lawful, the union engaging in that activity must both provide written notice as outlined about and, if the union is affiliated with a national or international union, receive authorization in writing.

These provisions are designed to enhance the possibility of settling the dispute without a work stoppage. The requirement for authorization by the union's parent organization is to bring into play the mediating influence of the parent and to prevent strike activity entirely if the parent organization disapproves. There is also included a proviso which safeguards the parent union against civil or criminal liability for granting such authorization to assure that it will not be held liable for exercising a function which the national labor policy regards as desirable.

This proviso furthers the principle of section 2(13) and section 301(e) of the Act that a labor organization—like an employer—is subject to liability for illegal activity which it has not committed only if that action is authorized or ratified according to the common law doctrine of agency, and recognizes that an affiliated local union is not an agent of its parent union by virtue of that relationship or the parent's reservation of control over the activities of the local. See, e.g. *Franklin Electric Co.*, 121 NLRB 143 (1958), which follows the *Coronado Coal* cases 259 U.S. 344, and 268 U.S. 295. The immunity will be unavailable only if the international grants authorization for picketing is to be willfully used to achieve an unlawful purpose. While the proviso is phrased in terms of an immunity from liability because the parent has authorized the strike activity by the local, it is not to be inferred that it is subject to liability where it does not authorize such activity. To allow a local union or its members to sue the international for withholding approval of a strike on some extension of the duty of fair representation or the international's obligations to its locals under their constitution or on any other basis would defeat the objective of requiring notice to and approval by the international.

New subsection 8(g)(2)(B) provides:

"Provided further, That in the case of any such site which is located at any military facility or installation of the Army, Navy, or Air Force, or which is located at a facility or installation of any other department or agency of the Government if a major purpose of such facility or installation is or will be, the development, production, testing, firing, or launching of munitions, weapons, missiles, or space vehicles, prior written notice of intent to strike or to refuse to perform services, of not less than ten days shall be given by the labor organization involved to the Federal Mediation and Conciliation Service, to any State or territorial agency established to mediate and conciliate disputes within the State or territory where such site is located, to the several employers who are jointly engaged at such site, to the Army, Navy, or Air Force or other department or agency of the Government concerned with the particular facility or installation, and to any national or international labor organization involved is an affiliate.

When a site of construction is located on any military facility of any other facility which has as a major purpose—present or future—the development, production, testing, firing, or launching of munitions weapons, missiles, or space vehicles H.R. 5900 establishes special conditions which must be met by any labor organization which undertakes primary activity under this amendment.

These conditions require:

(1) prior written notice of intent to strike of not less than 10 days:

(2) prior written notice of intent to refuse to perform services of not less than 10 days.

The written notice of intent to undertake primary activity at any such site or installation must be given to all the parties enumerated in the proviso.

Thus, in order for strike activity at a mili-

tary installation or missile site, now forbidden by the *Denver* decision, to be lawful, the union engaging in that activity must comply with written notice requirements set out above.

Since it is the theory of H.R. 5900 that the relationship between the general contractor and subcontractors in construction is primary, the "military facility" proviso does add specific limits on the right to engage in a primary strike at this particular type of site. This, nevertheless, reflects a proper exercise by the Congress of its role to declare a national labor policy to achieve the most effective labor relations. The Supreme Court has recognized the Congressional role in this regard in *Labor Board* v. *Erie Registor Corp.*, 373 U.S. 221, 234 (1963):

"While Congress has from time to time revamped and redirected national labor policy, its concern for the integrity of the strike weapon has remained constant. Thus, when Congress chose to qualify the use of the strike it did so by prescribing the limits and conditions of the abridgement in exacting detail, e.g. §§ 8(b)(4), 8(d), by indicating the precise procedures to be followed in effecting the interference, e.g. section 10(j), (k), (l); sections 206–210, Labor Management Relations Act, and by preserving the positive command of section 13 that the right to strike is to be given a generous interpretation within the scope of the Labor Act."

To the extent that the right to engage in strike activity is restricted in specified situations under H.R. 5000, the bill represents a continuation of congressional policies of setting only narrow qualifications on the use of the strike.

D. Section 102: Section 102 of the bill establishes the effective date of Title I. With respect to the construction work which was not contracted for or was not begun on or before November 15, 1975, Title I will go into effect within 90 days after the enactment of the bill. With respect to construction work which was contracted for and begun on or before November 15, 1975 whose gross value is $5 million or less, the effective date is one year after the effective date of Title I, that is, 90 days plus one year after the date of enactment. With respect to construction work of a gross value of more than $5 million, the effective date is delayed by two years, that is 90 days plus two years after the effective date of the bill. The reason for staggered effective dates contained in this section is to provide protection to owners who had already entered into contracts for construction work with general contractors and general contractors who had already contracted out work to subcontractors so long as the contract was let and the work had begun prior to November 15, 1975.

E. *Remedies:* While there has been no controversy on this subject, the section-by-section analysis would be incomplete without an explanation of the remedial consequences of the various provisions of the bill. The basic provision in what will be the third proviso to section 8(b)(4) will, of course, make lawful the conduct described, and thereby relieve unions which engage in that conduct of the sanctions for a violation of section 8(b)(4), under section 10(c), 10(l) and 303. However, picketing which does not satisfy the criteria of the third proviso, that is which does not satisfy the phrases discussed in paragraph (A)(1)(b) and (c), and which was illegal under section 8(b)(4) previously, will continue to be illegal and subject to those sanctions. The *Denver* rule and the prohibitions of section 8(b)(4) will also be preserved in the situation described in paragraphs (A)(2), (A)(2)(c), and (A)(3) discussed above. The other provisions of section 101(a) of the bill merely preserve prior law embodied in other provisions and the sanction relating to such other provisions. For example, picketing of all contractors on a construction site which is in violation of section 8(b)(7), will be subject to the remedies provided in sections 10(c), 10(l) but not in section 303. The rule of the Denver case is also preserved in the new subsection 8(h) and with respect to picketing on residential construction which is excepted by section 8(j). The remedies for a violation of 8(g) have already been separately discussed. Section 8(i) does not create a new unfair labor practice, but merely provides the circumstances under which a violation of section 301 of the act may be remedied through an employer suit for an injunction.

TITLE II—CONSTRUCTION INDUSTRY COLLECTIVE BARGAINING ACT

A. Section 202: Findings and Purpose—

Section 202 contains findings and conclusions about the nature of the construction industry, including the need for an enhanced role for national labor organizations and national contractor associations, working as a group, to assure that such problems as bargaining structure, productivity and manpower development are constructively approached by the parties themselves.

B. Section 203: Construction Industry Collective Bargaining Committee—

Section 203 establishes the Construction Industry Collective Bargaining Committee (CICBC) consisting of ten members representing the viewpoint of employers, ten members representing the viewpoint of national labor organizations, and up to three public members representing the public. The Secretary of Labor and the Director of the Federal Mediation and Conciliation Service are non-voting members ex officio. This section provides that all action of the Committee shall be taken by the Chairman or the Executive Director on behalf of the Committee.

Subsection (c) of Section 203 provides that the CICBC may promulgate rules and regulations, as necessary, without regard to the rulemaking provisions of section 553 of the Administrative Procedure Act. The exemption from section 553, however, does not mean that other portions of that Act do not apply, as appropriate, and it is intended that the freedom of information requirements, for example, are fully applicable.

C. Section 204: Notice Requirements—

Section 204 requires that with respect to termination or modification of any collective bargaining agreement covering employees in the construction industry, unions affiliated with any standard national construction labor organization, and any employer or employer association dealing with them, must give notice to their respective national organizations 60 days prior to the expiration date of the agreement. Where the national organization is a party, it must give notice directly to the Committee. If the agreement contains no expiration date, notice must be given 60 days before the date on which a proposed termination or modification is intended by the parties to take effect. It also requires 60 days notice of proposed mid-term modifications in existing agreements. The national organizations are required to transmit promptly the notices they receive to the CICBC. During this 60-day period, which is comparable to the provisions of section 8(d) of the National Labor Relations Act, the parties to the agreement may not change the terms and conditions of the existing agreement or engage in any strike or lockout.

D. Section 205: Role of the Construction Industry Collective Bargaining Committee—

Under this section, the Function of the CICBC is set out in the following seven subsections:

Subsection 205(a) authorizes the CICBC to take jurisdiction over a labor matter within a specified 90-day period.

Section 205(b) authorizes the CICBC to refer matters to national craft boards (or other similar organizations), and to meet with the parties directly.

Section 205(c) provides that once the Committee takes jurisdiction, strikes and lockouts are prohibited for a period of up to 30 days following the expiration date of the contract.

Section 205(d) authorizes the CICBC to request the participation in negotiations of the national labor and management organizations whose affiliates are parties to the matter.

Section 205(e) provides that when the Committee has taken jurisdiction and has requested participation of the appropriate national organizations, no new contract between the parties shall take effect without approval of the standard national union involved, unless the Committee has suspended or terminated the operation of this approval requirement.

Section 205 (f) limits the civil and criminal liability of national labor and contractor organizations which might be imputed to them by virtue of their participation under the Act.

Section 205 (g) states that the Act does not allow the CICBC to modify any contract.

After receiving the required notice, the Committee may take jurisdiction over the labor negotiations if it determines that such action will meet one or more of the following criteria: facilitating collective bargaining, promoting construction industry stability, encouraging bargaining agreements with more appropriate expiration dates and geographic coverage, promoting practices consistent with apprentice training skill level differentials, and promoting voluntary procedures for dispute settlement. The CICBC, in its discretion, may take jurisdiction on its own initiative or at the request of an interested party.

Once the Committee has taken jurisdiction, it may assist the parties by referring the labor matter to a national craft board, or to the national dispute procedures established by the appropriate branch of the construction industry. The Committee may also select to meet with the parties and take other appropriate action to assist the parties. Craft boards were established voluntarily pursuant to Executive Order 11588 operating under the Construction Industry Stabilization Committee. Membership was composed of representatives from contractor associations and from the international construction unions. These boards provided a preliminary review of collective bargaining agreements submitted to the CISC by the local parties, and assisted in local negotiations at the request of the CISC. Since such craft and branch boards have performed effectively in the past, the Committee expects that additional boards will be established. It is not intended, however, that the CICBC will delegate to them its principle functions of asserting jurisdiction or referring labor matters to national union and contractor organizations.

The Construction Industry Collective Bargaining Committee may request the national construction labor organizations and the national construction contractor associations whose members are directly involved to participate in the negotiations. If the Committee, after asserting jurisdiction, makes such a request, any new collective bargaining agreement or revision of an existing agreement must be approved by the standard national construction labor organization with which the local labor organization or other subordinate body is affiliated for the agreement to be of any force or effect.

In all cases, the CICBC's decision to assert jurisdiction over a construction industry labor matter, and to refer it to the national labor and contractor organizations, is confined to a specific 90-day period consisting of the 60-day required notice period, plus the

next 30 days. Accordingly, if timely notice is given 60 days before the termination date of a collective bargaining agreement, the Committee's jurisdictional period will terminate 30 days after the expiration date of the contract. If the serving of the required notice is delayed, the jurisdictional period consists of the 90 days following the actual date of giving notice. If early notice is given (for example, 80 days before the expiration date) to terminate or modify the agreement on the expiration date, the CICBC may take jurisdiction during the same period as if timely 60-day notice had been given. The giving of early notice would not extend the period during which a strike, lockout, or change in terms or conditions of employment is prohibited under this Act. In the case of a collective bargaining agreement which contains a "reopener" provision (permitting negotiations over mid-term modifications of the agreement), or an agreement containing no expiration date, the jurisdictional period runs during the 90 days following the giving of notice, or the 90 days which includes and immediately precedes the 30th day after the proposed effective date of the modification, whatever is later. During the 60-day notice period, the parties are required to continue in full force and effect, without resorting to a strike or lockout, all the terms and conditions of the existing collective bargaining agreement.

In every case where the Committee has asserted jurisdiction, whether or not it has referred the matter to the appropriate national organizations, a 30-day "cooling-off" period is imposed. No party to the agreement may initiate or continue any strike or lockout prior to the expiration of the full 90-day period (the 60-day notice period plus the succeeding 30 days), unless the Committee earlier releases its jurisdiction.

When the CICBC has requested the participation of the appropriate national organizations, the national union's approval is required in the case of all agreements entered into or intended to be effective during or after the 90-day jurisdictional period. Moreover, such approval is required whether the new or revised agreement is entered into prior to, or subsequent to, the assertion of jurisdiction by the CICBS. The parties are not permitted to agree or consent, either formally or tacitly, to any changes in the terms or conditions of employment prior to national union approval of the new collective bargaining agreement. Neither party may unilaterally impose new terms and conditions of employment, except to the extent otherwise permitted by law, prior to the approval of the new agreement. If, prior to the assertion of jurisdiction, and the request for national participation, the parties have put into effect a new agreement or revision, the parties must return to the terms and conditions of employment specified in the earlier agreement upon assertion of jurisdiction and the making of such request.

As the Committee may at any time relinquish its jurisdiction, it may also separately suspend or terminate the requirement that the national union must approve any local agreement before it is permitted to take effect. The Committee is expected to scrutinize carefully the progress of the negotiations and the procedures it has invoked, and it is to suspend or terminate the approval power of the international union only when it determines that such action is necessary to facilitate the bargaining or to accomplish other purposes of the Act. It is also intended that the CICBC is authorized to offer its advice and assistance to the parties even when it does not have jurisdiction over a labor matter.

The bill, in section 205(f) limits the civil and criminal liability of national construction labor organizations and national construction contractor associations which might be imputed to them from the actions they take at the request of the CICBC. It is to be expected that their actions will, at times, include steps to restrain their subordinate bodies in the interest of collective bargaining stability and the reduction of inflationary wage agreements under the guidance of the CICBC. It is intended that civil and criminal liability should not be imposed on these organizations because, as contemplated by the Act, they have participated in negotiations, or approved or refused to approve a collective bargaining agreement, pursuant to a request of the CICBC.

This provision recognizes that, under established agency principles, the national organizations should not be held liable under this Act unless they clearly have authorized, participated in or ratified the illegal conduct. Similarly, the national organization does not become a party to or an obligor under a collective bargaining agreement to which its subordinate organization is a party unless it has expressly agreed to do so. Section 205(f) begins from these principles and adds further protections. Accordingly, under section 205(f), when a national organization participates in local negotiations at the request of the CICBC pursuant to the Act, it is not to be held liable, for example, in the event of a wildcat strike, a breach of contract strike, or misconduct by union pickets or employer agents at a picket line.

The Committee provided these protections because it concluded that they are essential if the overall purposes of the legislation are to be achieved, and that there remain countervailing protections for third persons which the bill does not limit in any way. Local organizations, employees and employer agents continue to be liable for their torts, breaches of contract and violations of statutes. The courts also retain the authority to negate any provision in a collective bargaining agreement which is unlawful whether or not the agreement has been reached under the aegis of this bill. Moreover, section 205(f) is not intended to protect actions by a national organization that are not part of and parcel of its responsibilities under section 205(e) and 205(f) and when it performs an act to willfully achieve a purpose which it knows to be unlawful.

Finally, as an additional safeguard, the bill provides that the CICBC has the power to withdraw its authorization for a national organization to participate in collective bargaining negotiations. It is the intent of this proviso that the CICBC should invoke this power to assure that the national organizations utilize the authority granted to them in a manner consistent with the objectives of the bill.

E. Section 206: Standards for Committee Action—

Section 206 sets forth the standards for the assumption of Committee jurisdiction: to facilitate collective bargaining; to improve the structure of bargaining; to promote practices consistent with the appropriate apprenticeship training and skill level differentials among the various crafts; to promote voluntary procedures for dispute settlement; or to further the purposes of the Act.

F. Section 207: Other Functions of the Committee—

Section 207 authorizes the Committee to promote and assist in the formation of voluntary national craft or branch boards; to make recommendations as deemed appropriate to facilitate area bargaining structures; to improve productivity; to promote stability of employment; to improve dispute settlement procedures; and to make other suggestions, as it deems appropriate, relating to collective bargaining in the construction industry.

Under the provisions of section 207, the resolution of disputes over the terms of new or succeeding collective bargaining agreements through voluntary labor-management procedures is favored. This intent is embodied in the provision of this section authorizing the Secretary of Labor and the CICBC to refer a dispute to a craft disputes board, where one is in existence. These craft dispute boards are generally bi-partite in composition, comprised of an equal number of representatives from management and labor, and perform a function best described as bi-partite arbitration. The decisions of these boards, when reached by a majority vote, are generally binding on both parties to a dispute. Because these craft disputes boards play a vital and a needed role in attaining industrial stability and often prevent disruptive strikes, their use under the intent of this legislation is both encouraged and supported.

G. Section 208: Miscellaneous Provisions—

Section 208 provides for enforcement action in the form of civil actions for equitable relief brought by the Committee in U.S. District Courts to enforce any provisions of the Act. It sets forth the standard of judicial review of actions and decisions of the Committee. The result of the conference is to provide that the Committee's findings must not be "arbitrary or capricious" and that its decisions and actions must not be "in excess of its delegated powers or contrary to a specific requirement of Title (II)." Section 208 further provides that nothing in the Act shall be deemed to supersede or modify any other provision of the law except as provided by H.R. 5900. Section 208 also provides that attorneys of the Department of Labor will represent the CICBC in court except for the Supreme Court of the United States.

More specifically, under the enforcement provisions of section 208, in the event that the procedures required by the Act are not followed by the parties, the CICBC may direct that the appropriate U.S. District Court be petitioned to enforce any provision of the Act, including the issuance of an injunction prohibiting any strike, lockout, or the continuation of the strike or lockout, for the period prohibited under the Act. In granting injunctive relief, the District Courts are not bound by the restrictions on injunctions contained in the Norris-LaGuardia Act of 1932.

Since it is intended that the membership of the Construction Industry Collective Bargaining Committee will include individuals with a particular familiarity with the construction industry and its labor relations issues, and since the special expertise and experience of Committee members with regard to these matters is crucial if this legislation is to achieve its intended purposes, in the event that judicial review of the CICBC's actions and decisions is sought H.R. 5900 provides that they may be held unlawful and set aside only where they are found to be arbitrary or capricious, in excess of its delegated powers, or contrary to a specific requirement of the Act.

H. Section 209: Coordination—

Section 209 authorizes other agencies and departments of the Federal Government to provide information deemed necessary by the Committee, and directs the Committee and the Federal Mediation and Conciliation Service to consult and coordinate their activities.

I. Section 210: Definitions—

Section 210 defines the terms in the Act by incorporating certain definitions set forth in the Labor-Management Relations Act of 1947.

J. Section 211: Separability—

This section provides that if any portion of Title II is found to be invalid for any reason, the remainder of the title will continue to remain in effect.

K. Section 212: Authorization of Appropriations—

This section provides that such sums may

be appropriated as are necessary to carry out the provisions of this title.

L. Section 213: Expiration Date and Reports—

Section 212 provides that the Act shall expire on December 31, 1980.

The Committee is also authorized to make broad studies of collective bargaining in the construction industry and to make general recommendations with regard to bargaining structures, improvement of productivity, stability of employment, differentials among branches of the industry, dispute settlement procedures, and other related matters. The CICBC is required to submit annual reports to the Congress, and by June 30, 1980, is to make its final recommendations to the Congress, including a recommendation as to whether the Act should be extended.

EXHIBIT 2

STATEMENT OF SENATORS WILLIAMS AND JAVITS ON NASH-OBADAL MEMORANDUM ON COMMON SITUS PICKETING

A statement on the Senate Report on S. 1479 which in major part is retained in the Conference Report on H.R. 5900 was prepared for the Senator from Nevada (Mr. Laxalt) by two Washington lawyers (Anthony Obadal and Peter Nash), has been reprinted in the press, and has been circulated widely to members of Congress. (Mr. Obadal is counsel to the National Constructors Association and Mr. Nash is a partner in a leading management firm which represents various contractor associations.) Lest this statement of the bill's opponents be regarded as a guide to its meaning, we have prepared a response to that document.

Contrary to the assertion of the Obadal-Nash memorandum, the report of the Senate Committee on S. 1479 does not plow new ground on the basic issue before this body, the overruling of the *Denver Building Trades* case.

While the Senate Committee report treats the issue presented in that case in great depth, the basic points it makes are confined to that issue. This is also true of the report of the House Committee on Education and Labor and the floor statements of the House sponsors. Indeed, there is only one subject discussed in the Senate Committee report which was not contained in the bill as it passed the House, and which was not fully discussed in the House debate. This new matter is contained in the provision which will be § 8(i) of the Act and which according to Messrs. Obahal and Nash restrict employers rights "under the guise of assisting employers in obtaining injunctions against union strikes in violation of 'no-strike' clauses."

Section 8(i) is the result of an amendment offered in the Committee by the Senior Senator from Ohio (Mr. TAFT). The sponsors hesitated before accepting Senator Taft's amendment, because alone of all the provisions of the bill, it is extraneous to the central question of this legislation: the legality of picketing all the contractors at a construction site. We did accept the amendment because we believed that it served the best interests of everyone concerned with this legislation that the issue of the courts' authority to issue injunctions where a breach of a no-strike commitment is alleged, an issue which the Supreme Court has addressed twice with different results, be put to rest by legislative action.

The Obadal-Nash letter forwarding the memorandum states that § 8(i) would upset "existing law which allows injunctions." Their memorandum more accurately states that the issue with which they are concerned is not settled at all but one which is presently before the Supreme Court to resolve a conflict in the decisions of the circuit courts. And, even on that issue, they failed to state that the position of the Committee Report is to give continued effect to what the Supreme Court itself has said on the subject in its prior decisions.

There is a suggestion in the Obadal-Nash memorandum that it is somehow improper for Congress to declare what the law should be while a controversy is before the courts. This, however, completely reverses the Constitutional order of priorities. It is most emphatically the responsibility of Congress to determine the national labor policy and for the courts and the Board to enforce it. It is particularly incumbent upon us to do so where the judicial response to date manifests that those whose Constitutional role is to enforce our legislative intent are uncertain as to what that intent was. Indeed, the fact that the lower courts have had difficulty in understanding what the Supreme Court said about our intention is additional reason for us to deal with the problem at this time.

The Supreme Court first determined that the federal courts did not have the authority to issue injunctions in suits based on an alleged breach of contract. *Sinclair Refining Co. v. Atkinson* 370 U.S. 195 (1962). Thereafter, as a result of changes in the court, it was determined that an injunction could issue in a narrow class of cases, but not in others. *Boys Markets v. Retail Clerks*, 398 U.S. 235. It is that balance which the bill writes into statutory law.

A basic thrust of the Nash-Obadal memorandum is that the provisions of S. 1479 (Title I of H.R. 5900) "go far beyond its advertised purposes of providing picketing rights to construction unions equal to those now enjoyed by industrial unions". But the equal treatment concept which animates this legislation is not an advertising man's slogan. It is an entirely accurate description of what the bill does.

In 1947 Congress enacted a single provision against secondary boycotts which was to apply without distinction in all industries. During the past 25 years the Board and the Courts have turned that provision into one which contains two different definitions of who is a neutral employer. In the construction industry, each company is a neutral employer even when doing work interrelated with that being done by the struck employer. In all other industries, when a separate company does work interrelated with work of a struck employer, that employer is recognized not be the third person "who is wholly unconcerned in the disagreement" that the 1947 Congress intended to protect by providing a single definition of who is a neutral employer on a site where more than one employer is working. That definition is the "connected work" definition stated by the Supreme Court for industrial sites in *Electrical Workers v. Labor Board*, 366 U.S. 667 (1961) (*General Electric*).

Of course, the enactment of this bill would not mean that construction unions and industrial unions have exactly the same bundle of rights. For example, we have provided that construction unions must give a 10-day prior notice of an intent to engage in common situs picketing. Industrial unions are not subject to any such limitation by the *General Electric* case. Again, H.R. 5900 limits construction industry common situs picketing on the site or sites where the dispute is taking place. In contrast, *General Electric* places no limitation on the right of an industrial union to picket the employer with whom it has a dispute wherever the union can find him.

On the other hand, as the Nash-Obadal memorandum notes, other provisions of the Act give construction workers certain rights not granted to all unions representing non-construction employees.

The most important example is the right to picket for a clause requiring the general contractor to subcontract work only to union subcontractors. That right is presently enjoyed also by the garment trade unions but not by others. We have determined to continue the permission contained in § 8(e) of the Act because it provides a separate means for coping with the problem addressed by this bill. A general contractor, like a garment manufacturer, has the economic opportunity of destroying union organization by securing a contract and then subcontracting virtually all of the work to non-union employers. The purpose of § 8(e) in both instances is to provide a method for the unions in these two inherently unstable industries which are characterized by thousands of factors and in which each employer works on short-term projects, to remain organized. Indeed, common situs picketing is intended to be a second line of defense for the construction unions faced with this problem just as the broader 1959 garment industry proviso created an exception both to §§ 8(b)(4)(A) and (B) for the same reason.

The remaining three points made in that memorandum are also insubstantial. It is not necessary, however, to go through the same detailed analysis on each item. The essential point is that the differences between the rights and obligations of unions in different fields noted there is the product of considered Congressional judgment.

It is the function of Congress to make the national labor policy. There is ample room in that policy for thoughtful, realistic distinctions. Some work to the advantage of particular unions or employers and others to their disadvantage. Such consequences are inherent in the process of determining where the public interest lies. There is, however, the most fundamental difference between such legislative judgments and distinctions between different industries created by the NLRB or by the courts where there is no legislative intent to create them. Thus H.R. 5900 overrules the *Denver* case relied on by the Board and the courts in creating an impermissible distinction in the definition of neutrality in the construction industry and in all others. It leaves unaffected, except to the extent we have stated, the right to engage in primary picketing created by the bill.

The memorandum further objects that under the bill, International Unions would be granted absolute immunity against liability arising out of the exercise of the duty imposed on them to authorize or not to authorize picketing. The memorandum cites the recent case of *Wood* v. *Strickland*, 95 S. Ct. 992, which declares a narrower immunity for State officials. However, federal officials enjoy complete immunity from civil liability for actions taken in the exercise of their official responsibility. *Barr* v. *Matteo*, 360 U.S. 564; *Howard* v. *Lyons*, 360 U.S. 593. Broad immunity is particularly appropriate where, as under the bill, a private party is conscripted to perform a Federal function.

Moreover, it was never the sponsor's intent to immunize International Unions against conscious or deliberate wrong-doing. That, is made plain by the proviso added by the Senate and retained by the conferees.

The Nash-Obadal memorandum also states that the adoption of H.R. 5900 would adversely affect the recent Supreme Court's ruling in *Connell Company* v. *Plumbers* 421 U.S. 616. In that case, the Supreme Court agreed with the employers' argument—

"That despite the unqualified language of the construction industry proviso to § 8(e) Congress intended only to allow subcontracting agreements within the context of a collective bargaining relationship; that is, Congress did not intend to permit a union to approach 'stranger' contractor and obtain a binding agreement not to deal with non-union subcontractors".

Given the intimate interrelationship of all the secondary boycott provisions of the Act,

and since the construction industry proviso to § 8(e) is an antecedent to the approach taken in H.R. 5900, the Committee Reports of both the House and Senate note and comment briefly on the *Connell* decision. The memorandum argues that that discussion "may substantially undercut the recent Supreme Court decision in *Connell Construction*". In light of that point, it is appropriate to restate the sponsors' intent on this question in some detail.

It is our considered judgment that the *Connell* interpretation of § 8(e) is wrong. The Court noted that its view was contrary to the plain language of the construction industry proviso. And it is also plain that it is contrary to the authoritative legislative history explaining the intent underlying the proviso, as we noted in the Committee Report on S. 1479, on page 12.

While this answers that part of the *Connell* decision which was the subject of the contractor memorandum, to avoid any implications from our silence it is necessary to point out also that we do not intend to approve those aspects of the decision which extend the anti-trust laws or its remedies to secondary union activity, but these do not relate to the subject matter of the bill.

Given our views, the only substantial question that the sponsors of the bill had to decide was whether or not to rewrite the construction proviso to overrule the *Connell* interpretation. Contary to the explanation of the Nash-Obadal memorandum, we determined not to do so. Our reasons are these:

Section 8(e) already clearly protects agreements requiring the subcontracting of work only to union subcontractors.

Moreover, it is our understanding that the *Connell* decision reaches only the situation, there presented, where the general contractor has no employees who perform work which is performed by members of the picketing union. It does not affect agreements entered into by a union, or unions representing some of the general contractor's employees or by a Building Trades Council on behalf of its affiliate local unions or picketing in support of efforts to serve such agreements. This is made plain at several points of the opinion 421 U.S. at 631 and *id.* at note 10, 633 and 635. Since this more usual practice remains lawful, we determined not to present an amendment overruling the narrow holding of *Connell* although its reasoning is contrary to the views of the 1959 Congress and our own.

Finally, it was our view that the basic principles upon which H.R. 5900 is based and which have been both described during the floor debate on this bill and which are articulated in the Committee Reports, should be sufficient to assure that § 8(e) is properly interpreted in the future. It is our intent to establish that a general contractor and the subcontractors working for him are a single person for the purposes of the laws regulating secondary boycotts. This is the proper rule because: it is in accord with the realities of the situation; it assures that general contractors in subcontracting work do not undermine union conditions or union organization; the permission to engage in common situs picketing is the sole permission which can be exercised only on a situs-by-situs basis; by overruling of *Denver Building Trades* while retaining § 8(e), we intend to establish that the permissions contained in this bill and in the latter provision are complementary and that the § 8(e) proviso is not a mere stopgap enacted in 1959 pending action on the matter now finally before Congress; and, as the specific reference in this bill and in the legislative history to § 8 (b) (7) demonstrates, it is that section, and not the secondary boycott provisions, that regulates economic activity to organize or obtain recognition. The views stated in *Connell* insofar as they are contrary have not deterred us because as Justice Frankfurter wrote in a related case:

"It is the business of Congress to declare policy and not this Court's. The judicial function is confined to applying what Congress has enacted after ascertaining what it is that Congress has enacted." *Carpenters' Union v. Labor Board*, 357, U.S. 93, 98.

Finally, the memorandum charges that the Committee Reports intend to alter the established meaning of § 301(e) of the Act which deals with the question of agency. The charge is entirely baseless. The Reports make perfectly clear that in 1947, Congress determined that the common law rule of agency is preserved in cases arising under the NLRA. As Senator Taft then explained:

"I think the word 'agent' used here, as used in the contract section, and as used in other places in the bill, means an agent under the ordinary rules of the agency, an agent of the labor union, the organization, as such. The fact that a man was a member of a labor union in my opinion would be no evidence whatever to show that he was an agent." (93 Cong. Rec. 4435)

The Senate Report therefore states:

"It furthers the principle of section 2(13) and section 301(e) of the Act that a labor organization—like an employer—is subject to liability for illegal activity which it has not committed only if that action is authorized or ratified according to the common law doctrine of agency, and recognizes that an affiliated local union is not an agent of its parent union by virtue of that relationship of the parent's reservation of control over the activities of the local. See, e.g., *Franklin Electric Co.*, 121 NLRB 143 (1958)."

The *Franklin Electric* case, which was cited, is the leading NLRB case applying the common law doctrine of agency to the relationship of an international union and its locals. The Contractor memorandum does not assert that the case was wrongly decided, nor is such a claim possible, since the Board was there following the doctrine laid down by the Supreme Court in the *Coronado Coal* cases, 259 U.S. 344, 395; 268 U.S. 295, 304–305 namely:

"The argument of counsel for the plaintiffs is that, because the national body had authority to discipline district organizations, to make local strikes its own, and to pay their cost, if it deemed wise, the duty was thrust on it, when it knew a local strike was on, to superintend it and prevent its becoming lawless at its peril. We do not conceive that such responsibility is imposed on the national body. A corporation is responsible for the wrongs committed by its agents in the course of its business, and this principle is enforced against the contention that torts are ultra vires the corporation. But it must be shown that it is in the business of the corporation. Surely no stricter rule can be enforced against an unincorporated organization like this. Here it is not a question of contract or of holding out an appearance of authority on which some third person acts. It is a mere question of actual agency, which the constitutions of the two bodies settle conclusively. If the international body had interfered, or if it had assumed liability by ratification, different questions would have arisen."

When Congress in 1947 adopted the common law rule of agency, it, of course, did so against the background of the *Coronado* case. Prior to *Coronado*, unions as unincorporated associations were not subject to suit; *Coronado* held that they could be sued just like corporations, and according to the same rules of vicarious liability as corporations. These proportions were codified in § 301 (b) and (e) of 1947 amendments. In other words, the liability of the international for acts of the local is patterned after that of a parent corporation for acts of a subsidiary.

As Senator Taft said:

"I admit it may be difficult to prove the responsibility of a union. It is sometimes difficult to prove in the case of an employer. If the wife of a man who is working at a plant receives a lot of telephone messages, very likely it cannot be proved that they came from the union. There is no case then. There must be legal proof of agency in the case of unions as in the case of corporations. . . ."

There is a statement in the memorandum that "The courts have interpreted this section 301(e), and its accompanying history, as restoring in the labor relations field the general rules of agency, particularly the rules of apparent authority. The innuendo is that the apparent authority of the international union to prevent illegal conduct is sufficient to establish liability. But this is not what the rule of "apparent authority" provides. As *International Longshoremen's and Warehousemen's Union* v. *Hawaiian Pineapple Company*, 226 F.2d 875, 876 (9 Cir.), cited in the memorandum, states, the rule is that a principal is liable for the act of his agent if the agent has apparent authority to perform the act; it is not that a person becomes a principal because he has apparent authority to direct the action of another. "We think section 301(e) was intended to cover the acts of officers of the union who deal with employers or with the public. That is, if a union puts or lets an officer or other representative get into a position where he can and does cause trouble proscribed by the act, then the union is responsible."

Hawaiian Pineapple correctly held that the international union could be liable for the illegal actions of its officers, agents, and representatives. It did not hold and both *Coronado* and *Franklin Electric* preclude such a holding, that the international could, by reason of its relationship with the local, be liable for the actions of the local officers or agents.

The memorandum also refers to the recent *Eazor* decision by the Third Circuit Court of Appeals, which sustained a very substantial judgment against an International Union (actually understated in the memorandum) on the basis of section 301(e). The opinion in that case does not even mention the *Coronado* cases or any of the authoritative explanations of Senator Taft we have quoted, and the memorandum understandably does not assert that that case was correctly decided. It is precisely because some lower courts have misapplied the common law rules of agency and have held the international responsible for the actions of its locals although international officers, agents, or representatives have not participated in or ratified the illegal conduct that the clarifying discussion in the Reports was indispensable to assure that this bill be applied as we intend, and to foreclose the argument that we have ratified decisions which allow liability to be imposed on some theory not approved in 1947.

It should be emphasized that the whole problem of international responsibility came into the bill and thus into the Reports only by virtue of the additional responsibility placed on international unions by Secretary of Labor Dunlop's proposal for international approval of the exercise of the right granted in the bill, which proposal the House and the Senate and the conferees have accepted.

NOVEMBER 10, 1975.

HON. PAUL LAXALT,
U.S. Senate,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR LAXALT: In accordance with your request, we are forwarding to you our analysis of the Common Situs Picketing bills presently pending in Congress. It has not been our intent or purpose to approve or

disapprove of this legislation, but, rather, to set forth our understanding of the legal consequences which we believe might result from ultimate enactment of the legislation as it now stands.

As is evident from the enclosed memorandum, these bills (S. 1479 and H.R. 5900) go far beyond their advertised purpose of providing picketing rights for construction unions equal to those now enjoyed by industrial unions. Thus, while construction unions continue to be exempt from the "hot cargo" prohibition which restricts industrial union agreements, the bill permits them to go further and sanctions the use of secondary strikes to obtain and enforce such agreements. The proposed legislation also allows construction union picketing to spread to and close down not only entire construction sites, but also industrial plants or facilities located at such sites.

Further, although not originally intended, this legislation, through the interpretation being given it by the Senate Report, may substantially undercut the recent Supreme Court decision in *Connell Construction* which found restrictive union practices to be violative of the National Labor Relations Act and subject to the antitrust laws. In addition, under the guise of assisting employers in obtaining injunctions against union strikes in violation of "no strike" clauses, the bills actually restrict the employer's existing right to such injunctions, and at a time when the Supreme Court has just agreed to hear and decide the *Buffalo Forge* case which may broaden the employer's right to such injunctive relief.

Moreover, under the avowed purpose of reducing unrealistic demands and strikes by local construction unions by requiring approval of their international unions before any dispute may be spread by a local to close down an entire construction project, the Congress may be granting international construction unions extremely broad immunity from civil and criminal prosecution effecting liability on such issues as violations of no strike agreements or responsibility under the antitrust laws.

Finally, the Senate Report attempts to alter the plain meaning of Section 301(e) by contending that unions may only be held responsible for acts which they specifically authorize. This view is not supported by that Section, its legislative history, or the cases that have interpreted it.

Accordingly, there seems to be no basis in fact for characterzing this legislation as "Protecting Economic Rights of Labor" (the title of the House Report) or as providing "Equal Treatment of Craft and Industrial Workers" (the title of the Senate Report). This so-called "common situs picketing" legislation actually grants new and extensive powers to construction unions well beyond any now possessed by industrial unions. It is hoped that the enclosed analysis may be helpful to you in the determining what the bills really accomplish, which, in our judgment is far different from the "equal treatment" consequences announced and discussed by their proponents.

Sincerely,

ANTHONY J. OBADAL,
Zimmerman and Obadal.
PETER G. NASH,
Vedder, Price, Kaufman, Kammholtz, & Day.

"COMMON SITUS PICKETING" FAR MORE THAN ADVERTISED

(By Peter Nash* and Anthony J. Obadal**)

IN INTRODUCTION

S. 1479 and H.R. 5900, commonly know as the "common situs picketing bills," are presently pending before the Congress. They have been generally described by their proponents as, at last, affording construction trades unions the same strike and picketing rights as apply to all industrial unions in this nation.[1] So stated, it is difficult to argue with this principle of equality. Accordingly, it is reported that several Presidents, Secretaries of Labor and the majority of the present members of both houses of Congress have endorsed this proposed legislation as providing long denied equity to construction trades unions.[2]

Without debating whether or not the powerful construction unions need additional strike and picketing rights,[3] a detailed review of the ramifications of the present common situs picketing bills is necessary before one endorses this proposed legislation as a simple, uncomplicated grant of equal picketing rights to construction unions.

The analysis which follows indicates that the proposed legislation, in fact, grants rights and privileges to construction unions well beyond those enjoyed by industrial unions in our society.

Thus, for example, entire job sites may be picketed, and, in fact, industrial facilities may be subject to construction union picketing, because of disputes between a union and a construction subcontractor. Construction unions may engage in broad picketing to close down entire construction projects and even industrial plants and public utilities to remove a disfavored construction subcontractor from a job or to force a construction employer to recognize and bargain with a union that his employees have never voted as their bargaining representative.

Further, and without debate or warning, the legislative history carefully drafted by the Senate and House committees seeks to establish the basis for an overruling of the Supreme Court's antitrust decision in *Connell Construction Co.*[4] decided in June 1975. The Senate bill itself also seeks to prejudge an extension of the *Boys Market* doctrine, relating to union violations of no-strike agreements which the Supreme Court has recently accepted for argument but has not yet heard and decided.

Finally, the proposed legislation may confer immunity from civil and criminal responsibility upon national construction unions which goes beyond that enjoyed by any other unions and, in fact, beyond that enjoyed by public officials, including U.S. Congressmen and Senators. This provision could well allow unions exercising "approval" functions under the bill to deliberately encourage violations of the antitrust laws or violations of no-strike pacts to which they are parties without suffering any legal sanctions.

Whether these expanded rights and privileges are proper is a matter for Congress' informed judgment. The difficulty to date is that the proposed legislation has not been widely discussed or reviewed for what it, in fact, accomplishes, but, rather, has been viewed primarily as a grant of equal economic power to construction unions. Thus, both the Senate and House reports submerge the issues rather than develop an explanation of them for the guidance of the members of Congress. It is the intent of this paper to focus upon some of the specific consequences which may flow from enactment of these measures so that those who may be interested in its development may better judge its value on a more informed basis.

II. LEGAL BACKGROUND

Some back ground is required first.

A. *"Secondary boycotts" and "hot cargo" Agreements generally*—Section 8(b)(4)(B) of the National Labor Relations Act[5] prohibits union strikes and picketing which result in "secondary boycotts." This prohibition is intended to protect employers and their employees from disputes between unions and other employers. Thus, for example, if a union is bargaining with employer A (who manufacturers hammers) and strikes employer A in quest of higher wages for A's employees, it may not picket employer B (who buys hammers from A) in an effort to pressure B into ceasing its purchase of A's hammers and thereby add pressure against A so that it will more readily agree to the union's wage demands. In this example, the union has no dispute with B concerning the manner in which B treats its employees. B is a "neutral" to the union's "primary" dispute with A and may not under present law be struck or picketed by the union. Another way of stating this legal result is that B (the neutral) is "secondary" to the union's "primary" dispute with A. Thus, the term "secondary boycott" describes the statutory prohibition against union action to pressure the "secondary" to "boycott" (cease purchasing the products of) the employer with whom the union has its primary dispute. Thus, Congress adopted secondary boycott prohibitions in order to confine labor disputes to the primary parties and thereby eliminate the unfortunate economic consequences of broader pricketing activity.

Section 8(e) of the National Labor Relations Act[6] prohibits so-called "hot cargo" agreements. Section 8(e) provides that an employer and a union may not enter into an agreement whereby the employer agrees not to do business with ("boycott") another. In our example above, the union would be prohibited by Section 8(e) from agreeing with employer B that B would no longer purchase A's hammers. Section 8(e), therefore, is basically a prohibition against a union indirectly accomplishing a secondary boycott by agreeing with the neutral (secondary) employer instead of by direct striking or picketing of that neutral.

Section 8(b)(4)(A)[7] of the National Labor Relations Act prohibits any union from striking to obtain an agreement from an employer which would be unlawful under Section 8(e) (the "hot cargo" prohibition).

Finally, both the "secondary boycott" and "hot cargo" prohibitions apply to a "boycott" of services as well as goods.

B. *Construction industry exception to Section 8(e).*—

Section 8(e), however, contains an exception for the construction industry and allows an employer in the construction industry and a construction trades union to enter into a "hot cargo" agreement if that agreement relates to the contracting or subcontracting of work to be done at the site of construction. For example, construction employer B could agree with any union which represents its (B's) employees that B would not subcontract any job site work (the building of a foundation, for example) to any employer who does not have a collective bargaining agreement with a union. Further, because such an agreement would be lawful under Section 8(e), the union would not violate Section 8(b)(4)(A) by striking or picketing employer A to obtain such an agreement; Section 8(b)(4)(A) limiting its prohibition only to strikes or picketing to obtain agreements which violate Section 8(e).[8]

However, the union's pressure to obtain an agreement otherwise protected by the Section 8(e) construction exception violates Section 8(b)(4)(A) (and any agreement would violate Section 8(e)) unless that union has a collective bargaining relationship with the construction employer.[9] Thus, if a union enters into a restrictive subcontracting agreement as to construction site work with a general contractor and that union does not represent the construction employees of that general contractor, then the agreement is not protected by the construction exception to Section 8(e) and thus violates Section 8(e).[10] Accordingly, any strike or picketing to obtain that agreement violates Section 8(b)(4)(A).

Footnotes at end of article.

C. *Leading cases.*—Against this backdrop, a few leading cases need be discussed.

The first is *Denver Building Trades.*[11] In that case, the Supreme Court held that a general contractor and each subcontractor on a construction site common to them all were separate and independent employers. Accordingly, the Court held that a union, which had a collective bargaining agreement with the general contractor but had a dispute with a subcontractor who was paying his non-union employees less than union scale, could not picket the general contractor or the entire common construction site to force the general contractor to terminate the disputed subcontractor. Thus, the union must limit its picketing to the subcontractor with whom it had its primary dispute. The union could not picket the general contractor (the secondary) in an effort to force him to cease doing business with the disputed subcontractor (the primary).[12]

After *Denver Building Trades,* the Supreme Court decided the General Electric case.[13] In that case, the Court deal with a primary dispute that existed between GE and a union representing its plant employees. GE also had subcontractors working at its plant site, some of whom performed general day-to-day maintenance work for GE and some of whom were engaged in the construction of GE facilities. GE had established separate gates leading onto its premises, some for the exclusive use of its employees, the rest for the exclusive use of its subcontractors' employees. The union, in furtherance of its dispute with GE, picketed all the gates including those limited to the exclusive use of the subcontractors and their employees. The Court held that the question of whether the picketing of the subcontractor gates was a prohibited "secondary boycott" (i.e., a prohibited pressure against the subcontractors to cause them to cease working for GE) turned on whether those subcontractors were engaged in performing work which aided the employer's everyday operations or whether their (the subcontractor's) work was unconnected to the normal operations of GE. If the former, then the subcontractors' separate gates could be picketed, for as part of a lawful primary dispute with GE, the subcontractors who were assisting GE in its day-to-day operations could be urged to cease work at the common site for the duration of the dispute which involved General Electric's day-to-day operations workers. However, if the subcontractors' work was unconnected to GE's normal operations (such as work on the construction of a new building or a plant expansion), then the subcontractors were "secondaries" or "neutrals" whose gates could not be picketed to force them to cease their work for General Electric.[14]

Thereafter, construction trades unions argued that the *General Electric* rule, not the *Denver* rule, should apply to construction. Accordingly, the argument went, when a union had a dispute with the general contractor on a construction site, it should be able to picket all the subcontractors of that general who were assisting in the general's day-to-day operations. Thus, because the work of all construction subcontractors is integrated with and related to the general contractor's day-to-day work of constructing something, all the subcontractors should be subject to picketing. This argument was rejected by the NLRB and the courts on the view that the Denver rule, not the GE rule, applies in the construction industry.[15]

It is with this dichotomy that the "common situs picketing" bills are advertised to deal.

However, some additional background is required.

Since the *General Electric* case, the National Labor Relations Board and a court of appeals have held that the *General Electric* rule does not apply to industrial employers and unions in reverse. Thus, where a union has a dispute with the day-to-day maintenance subcontractor of an industrial employer (such as GE), rather than with the industrial employer as in the *General Electric* case, that union may picket only the gates set aside for the subcontractors' employees and materialmen and may not, without violating Section 8(b)(4)(B), picket the gates used exclusively by the industrial employer.[16]

III. "EQUAL TREATMENT"—WHAT IT WOULD AND WOULD NOT INCLUDE

Against this background, legislation seeking to grant construction unions the same picketing and strike rights as industrial unions and prohibiting the same secondary boycott and hot cargo restrictions as apply to industrial unions would simply result in the following:

The proposed legislation would allow a union which has a legitimate dispute with a construction general contractor to picket and strike not only that general contractor but all of his construction subcontractors whose work is related to the general's day-to-day function of constructing whatever is being built on the job site. Thus, the general contractor in such a case would be like GE in the *General Electric* case, and the subcontractors could be picketed at their separate gates because they are engaged in the primary's (GE's or the general's) day-to-day operations.

If only equality were truly intended, such legislation would not continue heretofore privileged 8(e) construction agreements[17] nor the right to strike to obtain them,[18] nor would it allow union pressure to remove a non-union subcontractor from a construction job site.[19] Further, the proposals would not sanction spreading a dispute from a subcontractor to the contractor and his other subcontractors,[20] nor to any industrial facility located at the construction site. Finally, no dispute between an industrial employer and a union would be allowed to engulf construction contractors whose work is not related to the normal operations of the industrial employer.

And yet, despite the claim that the proposed "common situs picketing" legislation is intended merely to provide equal treatment for construction unions, the present proposals may well grant to construction unions all of the foregoing additional picketing, strike, "secondary boycott" and "hot cargo" powers which are denied industrial unions. Accordingly, the present proposals should be analyzed for what they are and do, and not merely on the basis of their catchy advertising slogans. To do so, one must carefully analyze the pending bills.

IV. THE PROPOSED LEGISLATION

The basic provisions of both bills provide, in essence, that there shall be no secondary boycott violation (no violation of § 8(b)(4)(B)) where there is a strike or picketing of all employers in the construction industry (including general contractors and all subcontractors) at a construction site concerning a dispute involving the working conditions of employees on the construction site between the striking or picketing union and one of the construction employers on that site (either the general contractor or any one of his subcontractors) if the dispute with that particular employer is not otherwise unlawful under the NLRA and if the issues in the dispute ". . . do not involve a labor organization which is representing the employees of an employer at the site who is not engaged primarily in the construction industry. . . ."

The various elements needed to trigger this exception to the secondary boycott prohibitions of the law would, therefore, seem to be as follows:

(1) The basic primary dispute the union has must be with an employer who is *"in"* the construction industry;[21]

(2) The dispute must relate to the working conditions of employees employed at the construction site by an employer *"in"* the construction industry;

(3) What the union seeks or does not otherwise unlawful under the NLRA;

(4) The other employers (other than the employer with whom the union has its primary dispute) struck or picketed by the union (presumably to pressure them to cease doing business with the employer with whom the union has its primary dispute) must be "in" the construction industry;

(5) The strike and/or picketing must be limited to the site of the construction project at which union has its primary dispute; and

(6) ". . . the issues in the dispute do not involve a labor organization which is representing the employees of an employer at the site who is not engaged primarily in the construction industry. . . ."

Accordingly, leaving aside for the moment the technicalities which may serve to greatly expand construction union economic power beyond that of industrial unions, these basic provisions do apply the General Electric principles to the construction industry and effectively overrule the Supreme Court's holding in Denver.

If the results of the proposed legislation stopped here, equal treatment, and only equal treatment, would be afforded construction and industrial unions. However, the proposed legislation produces results far beyond those so advertised.

First, the proposed legislation does not repeal or change in any form the construction industry exemption to the hot cargo prohibitions of § 8(e).[22] Accordingly, a construction union may continue to exact agreements from general contractors whose employees the union represents which will restrict the subcontracting of on-site construction work only to union contractors. Further, the union may strike or picket the general contractor to obtain such an agreement. In no case do industrial unions have either the power to enter into, or to strike to obtain, such agreements. Even more important, however, is the fact that the construction union's strike or picketing pressure need not be limited to the general contractor from whom it seeks such an agreement, for the proposed legislation will allow this union to picket all of the subcontractors on the job site in an effort to place additional pressures upon the general contractor to sign such an agreement—an agreement that no industrial union could seek at all, let alone pressure "secondaries" to obtain.

Second, although it is presently a violation of the secondary boycott provisions of § 8(b)(4)(B) of the Act for both a construction union and an industrial union to strike or picket a general contractor to pressure him to dismiss a non-union subcontractor working on the job site, and although the clear statement is contained in the proposed bills that common situs picketing will not be allowed if the union's dispute is otherwise unlawful under the NLRA, the congressional discussion dealing with the proposed "common situs picketing" legislation clearly indicates that the legislation is intended to privilege such activity in the future by construction unions.[23] If the intent is to privilege strikes or picketing pressure to this end, then a construction union could picket a general contractor to have all non-union subcontractors removed from the job, a right that no industrial union possesses. Further, that picketing or strike pressure may be extended to all the subcontractors on the job site, again a power in the hands of construction unions far beyond the reach of any industrial union.

Third, the proposals make no distinction between, and provide no different conse-

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Footnotes at end of article.

quences with respect to, primary disputes with general construction contractors and primary disputes with subcontractors.[24] Thus, under the Congressional bills, if a union has a legal dispute with a construction subcontractor, it may picket not only that subcontractor but the general contractor working on the construction site—a right and power not granted to industrial unions under the *General Electric* rules where a dispute with a GE subcontractor would have to be limited to the separate gate reserved for that subcontractor.

But the bills grant even more. Not only may the general contractor be picketed in such a dispute with one of its subcontractors, but all its other subcontractors on the construction site may be picketed. Again, these are rights and powers far beyond anything even contemplated for industrial unions.

Fourth, the union in question may not even represent the employees of the primary subcontractor but may picket that subcontractor and the entire job site for up to 30 days in an effort to force the subcontractor to bargain with it on behalf of its employees. Whereas industrial unions have the same right for 30 days, they must confine their picketing to the employer from whom they seek recognition and cannot expand that picketing and its pressure to "secondaries" in an effort to more effectively override employee wishes by forcing employer capitulation to union power.[25]

Finally, as earlier discussed, under *General Electric* principles no union is privileged to picket or strike an industrial employer concerning a dispute between it and a subcontractor working at the industrial site. Further, no union with a dispute between it and an industrial employer may picket the separate gates set aside for construction contractors whose construction work is not related to the day-to-day operations of the industrial facility. However, apparently the proposed "common situs" legislation will allow unions to engage in both such expanded picketing activities under certain circumstances.

These consequences flow from the fact that the phrases "employer *in* the construction industry" and "employer engaged *primarily* in the construction industry" are phrases of art, having particular technical meanings under the National Labor Relations Act.[26]

To be an "employer *primarily in* the construction industry," one's main business must be construction, such as a normal construction contractor or subcontractor.

However, to be an employer merely "*in* the construction industry," one need spend little time, effort or expense on construction work. For example, the National Labor Relations Board has held, in a relatively little known case, that an employer who operated a chain of retail, drive-in, take-out fried chicken stores was "*in* the construction industry" because, in building new stores, it employed a construction superintendent who hired, supervised the work of and paid construction subcontractors.[27] The same principle would presumably hold true for the hundreds of American industrial employers (particularly manufacturers and public utilities) whose main business has nothing to do with construction but who, in one way or another, act as their own general contractors when they engage in building projects.[28]

When one analyzes the pending common situs picketing legislation with this little known NLRB ruling in mind, the ramifications are startling.

Assume a union has a lawful dispute with a construction subcontractor. As analyzed above, the proposed bills would allow that subcontractor to be struck and/or picketed. In addition, a picketing would be allowed at the construction site of all other employers "in" the construction industry. If an industry facility acts as its own general construction contractor on an addition to its existing plant, it is "*in* the construction industry." Further, its existing plant, as well as the new addition, may all be part of the "construction site."[29] Thus, the industrial employer's entire facility could be picketed,[30] a result far beyond any existing power of any industrial unions.

Assume further that an industrial union has a dispute with the industrial employer who is acting as its own general construction contractor in the construction of a plant addition. Again, the dispute is with an "employer *in* the construction industry," and the plant facility and its addition may be the "site of construction."[31] Accordingly, it may well be that all the construction subcontractors may be picketed at their separate gates despite the fact that the dispute has nothing to do with construction work, the union involved is not a construction trades union and the construction work is unrelated to the day-to-day operations of the industrial facility.

Although the latter dispute does not involve an employer "engaged primarily in the construction industry," the only place that requirement is mentioned in the proposed legislation is in the confusing "double negative" phrase ". . . the issues in the dispute do *not* involve a labor organization which is representing the employees of an employer at the site who is *not* engaged primarily in the construction industry."

If the union with a dispute between it and the industrial employer represents the employees of the industrial employer, it appears that the union's picketing activity cannot spread to the construction subcontractors on the site. In such circumstances, the issue *would* involve a labor organization representing employees of an employer, who, although "in" the construction industry, is not "primarily in" the construction industry. If, however, the union in dispute with the industrial employer does not represent the industrial employees (but instead may be seeking to represent them by picketing the industrial employer), it appears that its picketing of the industrial employer may be expanded to include picketing of the separate gates set aside for the construction contractors. Thus, in such a case, although the issues do not involve an employer "primarily in" the construction industry, they also do not involve a union representing that employer's employees. Because the issues do not involve such a union but are related to employees employed by an employer "in" the construction industry and so employed at the construction site, apparently the union may engage in common situs picketing of the construction subcontractors.

Although this may seem extraordinary, the question of whether picketing now clearly prohibited by the GE rule can be expanded to construction work may turn, under the proposed bills, on whether the employees of the industrial employer are represented by a union or not.[32]

V. EFFECT ON RECENT AND PENDNG SUPREME COURT DECISIONS

Although the debates to date have not concentrated on the effect of the pending legislation upon two very important areas of the law (one recently and one about to be decided by the Supreme Court), the legislation itself, as well as its underlying committee reports, may well have a significant impact which as yet has not been reviewed in detail by the Congress.

A. *Connell Construction Co.*—

Just at the time that the House was about to commence hearings on its initial version of the Common Situs Picketing Bill (H.R. 5900), the Supreme Court issued its landmark opinion in *Connel Construction* v. *Plumbers Local 100*, 421 U.S. 616 (June 2, 1975). In a decision not related to the announced purposes of this bill, the Court held that a union's restrictive subcontracting agreement as to construction site work with a construction employer with whom it had no collective bargaining relationship and which was not limited to a particular job site, was not protected by the construction exception to § 8(e)[33] and was further subject to the antitrust laws.[34]

Although the avowed purpose of H.R. 5900 and S. 1479 is to overrule *Denver Building Trades*, as noted earlier, the legislation and its history seem to go far beyond that announced goal. So too do these bills now seem to involve and attempt to undermine the Court's decision in *Connell*. Thus, this legislation could be construed to impose, as a matter of law, the element of a collective bargaining relationship between a union and a job site general contractor—the absence of which infected the subcontracting agreement which was found violative of § 8(e) by the Supreme Court in *Connell*.

This potential is created because the House and Senate reports, rather than treating the Bill as simply creating an exception to the secondary boycott prohibitions, seeks to remove as a matter of law, the separate employer status of different contractors and subcontractors on a construction site which, pursuant to *Denver*, formed the basis of the insulation of each from the disputes of the others. Such heretofore separate employers would be treated under this Bill as one, for purposes of Section 8(b)(4) and 8(e) of the Act. Thus, as the general contractor and his subcontractors are one employer, the proposed legislation may result in the union's collective bargaining relationship with a construction subcontractor being imputed to the general contractor. As such, the general contractor and the union with whom it otherwise has never dealt as a bargaining representative of the general's employees would, as a matter of law, have a bargaining relationship sufficient to undermine the Court's holding in *Connell*.[35]

Accordingly, if the proposed legislation is to be so interpreted, then a construction union could picket a construction contractor to obtain a restrictive subcontracting agreement as to on-site construction work even though that union represents *none* of that contractor's employees—a power barred by the Court in *Connell*, and a right, far beyond that afforded any industrial union.

In addition to the basic structure of the legislation and its intended combination of construction employers into a singly employer entity, the committee reports accompanying the proposed legislation seem further to support the understanding that the legislation is, in fact, intended to undermine the *Connell* decision.

Thus, the Senate Report asserts that the result in *Connell* was contrary to the language of the construction exception to § 8(e) and suggests that *Connell* was predicated upon Denver.[36]

The inference to be drawn from the latter suggestion, presumably, is that if *Denver* is overruled by the pending legislation (as it is intended to be), then the *Connell* decision must fall. Further, in explaining § 8(e), the House Committee makes no mention of the need for a bargaining relationship.[37] In fact, the Senate Committee report seems to disavow the bargaining relationship requirement so recently established by the Supreme Court by specifically discussing the discredited *Duplex* case[38] as holding that union exemption from the antitrust laws was limited to "an immediate employer-employees relationship."[39]

Finally, the Senate Report in discussing the general contractor's position in construction, leads toward the conclusion that the proposed legislation is intended to change the result reached by the Court in *Connell*. Thus, the report states:

"If he chooses to subcontract to a non-union subcontractor who pays less than the prevailing union wage and wins the bid for

Footnotes at end of article.

that reason, the contractor cannot claim 'neutrality' when the unions protest by picketing the job site." [40]

Thus, although the proposed legislation was not intended to affect *Connell* and although testimony before the Congress emphasized that the bills would not impact *Connell* [41] it seems clear that the legislation and its history are designed to undercut this decision.

B. *Boys Markets—Buffalo Forge.*

On October 20, 1975 at the United States Supreme Court ordered review of a Second Circuit Court of Appeals decision dealing with the granting of injunctions against strikes in breach of a "no-strike" commitment in a collective bargaining agreement. On October 19, 1975 the Senate Committee on Labor issued its report on S. 1479 in which it announced the unanimous committee adoption of an amendment to that bill which deals with the same subject.

That amendment provides that an employer at a common construction site may bring an action to enjoin any strike or picketing at a common construction site in breach of a "no-strike" clause, but only if the strike or picketing relates "to an issue which is subject to final and binding arbitration . . . as provided in the agreement.[42]

However, the issue to be considered by the Supreme Court in the *Buffalo Forge Co.* case [43] (the case now being considered by the Supreme Court) is precisely whether injunctive relief against a breach of a "no-strike" clause must be limited to strikes relating to issues arbitrable under the collective bargaining agreement or whether such injunctions may be granted by the Federal Courts in strike situations where there is no underlying arbitrable dispute between the striking union and the struck employer.[44] The argument that this amendment was included in order to protect employer rights under *Boys Market* fails to withstand analysis. Both the Bill (p. 4, line 14) and the Senate Report (p. 20) make clear that situs picketing is not to be permitted where the dispute is "unlawful under this Act or in violation of an existing collective bargaining contract." The so-called "right" granted employers by the amendment merely codifies for the construction industry the more restrictive view of a right which already exists under the Supreme Court's decision in *Boys Markets.*[45] The amendment does not take into account the view of some Circuits that employers may properly seek injunctions against strikes in breach of a "no-strike" clause in a collective bargaining agreement, whether or not the strike relates to an underlying issue arbitrable under that agreement.[46]

Accordingly, it may be well to consider whether the proposed amendment should be acted upon at this time (just prior to Supreme Court consideration of the issue dealt with in the amendment) and, if so, whether "no-strike" injunctions should be restricted to the most limited circumstances under which the courts already grant such injunctions. Further, if the amendment is enacted into law and if the Supreme Court holds in *Buffalo Forge* that injunctions against such strikes may be more liberally granted, construction union may again have been afforded by the pending legislation more strike and picketing rights than are applicable to other unions.[47]

VI. UNION IMMUNITY

Both H.R. 5900 and S. 1479 grant significant additional picketing and strike rights to construction union. However, the bills condition this right to expand their economic power by requiring approval by a parent union, i.e., the national or international union with whom the local is affiliated. Thus, before a union engages in strike or picketing activity which, but for the legislation under consideration, would have been an unlawful secondary boycott, that union must give 10 days written notice of its intention to do so to any national or international union with whom it is affiliated and the parent organization must authorize such activity in writing.

The proposed legislation then protects international unions from the consequence of irresponsibly approving common situs strikes by providing:

"That authorization of such action by the national or international labor organization shall not render it subject to criminal or civil liability arising from activities notice of which was given pursuant to the above proviso. . . ." [48]

Presumably this immunity clause has been added to the proposed legislation to protect conscientious but unknowing international unions from liability for acts engaged in by their local union which the international never knew about and, thus, never ratified or authorized when it approved common situs activity by that Local. Both committee reports profess that this grant of immunity is not intended to change existing law which, it is claimed, renders an international union liable for the acts of its local union only when they authorize or ratify such activity.[49]

However, the wording of this immunity proviso could allow an interpretation which would hold international unions far less accountable for acts authorized by them, and, in fact, change existing law for construction unions. The following examples indicate the abuses which may occur under this provision:

A local construction union seeks common situs picketing authority from its international union and alerts the international that it will engage in mass picketing and acts of violence in furtherance of its objective. Such acts would clearly violate Section 8(b)(1)(A) of the Act [50] as well as state criminal laws. If the international otherwise knew and approved of such violence it might well both be criminally liable and have committed an unfair labor practice under the National Labor Relations Act. However, the immunity provision in the proposed legislation may well remove its approval issued pursuant to that proviso. In fact, it would be relieved of this liability even if it encouraged the illegal violent actions by the local.

A local union seeks common situs activity permission from its international in an effort to boycott certain manufactured products which are to be used in the construction work. The international union's approval of that activity, which would be in violation of the secondary boycott provisions of Section 8(b)(4)(B),[51] again might render it immune from liability which would otherwise attach to it but for the proposed immunity proviso.

A local union seeks strike and common situs picketing authorization from its international union in violation of the "no-strike" clause in a collective bargaining agreement to which both the local union and the international are parties. Although the international union as well as the local would normally be liable for the knowing breach of that agreement, it may be that authorization, pursuant to the proviso, of the common situs activity by the local union would shield the international from liability.

An international union, in concert with a local, could knowledgeably authorize or encourage a common situs strike with the objective of achieving a goal prohibited by the antitrust laws. [See, for example *UMW* v. *Pennington*, 381 U.S. 657, 59 LRRM 2369 (1965) where the union, in conjunction with certain employers, sought to drive some coal operators out of business through the misuse of their bargaining functions.] Prosecution under the criminal law or a private suit for damage would seem to be foreclosed by the immunity provision.

Accordingly, if the proviso is to be construed to grant immunity to international unions from liability for any activity that authorize pursuant to its provisions, then the proviso could become a useful mechanism by which construction international unions may shield themselves from liability and responsibilities which confront industrial unions. [52]

It is possible that Congress has not intended, nor would the courts affirm, such a broad grant of immunity to construction international unions. If so, and if what is intended is merely a limited immunity to protect international unions from suits by its members for refusal to grant common sites authority [53] and to protect them from the unlawful aspects of strikes or picketing of which they had no knowledge, then that intent should be more clearly defined. [54]

VII. THE ATTEMPT TO ELIMINATE RULES OF AGENCY

Finally, it should be noted that the Senate Report attempts to establish a "legislative" history which if left uncorrected may allow courts to alter the established meaning of section 301 (e) of the National Labor Relations Act. [55] That section provides:

"For the purposes of this section, in determining whether any person is acting as an 'agent' of another person so as to make such other person responsible for his acts, the question of whether the specific acts performed were actually authorized or subsequently ratified shall not be controlling."

The floor debates concerning this section make crystal clear that Congress did not wish the strict agency doctrines developed under Norris-La Guardia Act cases applicable to action involving violations of agreements between employers and labor organizations. [See, for example the colloquy between the then Senators Taft and Magnuson.] [56]

The courts have interpreted this section and its accompanying history as restoring in the labor relations field "the general rules of agency, particularly the rules of apparent authority." See *International Longshoremen's & Warehousemen's Union v. Hawaiian Pineapple Co. et al.*, 26 F. 2d 875, 876 (CA-9, 1955). Most recently, courts awarded a judgment of over $665,000 in damages against a union based in part upon this section. See *Eazor Express Inc., supra,* 89 LRRM 3179.

The Senate Situs Picketing Report attempts to reverse the plain meaning of 301 (e). That Report states that the immunity provisions of the Bill.

". . . furthers the principle of section 2 (13) and section 301(e) of the Act that a labor organization—like an employer—is subject to liability for illegal activity which it has not committed only if that action is authorized or ratified according to the common law doctrine of agency, and recognizes that an affiliated local union is not an agent of its parent union by virtue of that relationship or the parent's reservation of control over the activities of the local. See, e.g. *Franklin Electric Co.*, 121 NLRB 143 (1958)." [57]

This history casts the present Senate in the position of disagreeing with the interpretation given Section 301(e) by the courts in cases like those cited above. Few who favor situs picketing will be aware that by their votes they may be laying the basis upon which Section 301(e) is being revised.

If the proposed legislation sought only equal rights and powers for construction unions, it would repeal the construction exception to the "hot cargo" prohibitions of § 8(e) and merely provide that a union representing employees of a general contractor engaged primarily in construction would not violate § 8(b)(4)(B) if, as part of a lawful dispute involving the working conditions of construction site employees it represents, it

Footnotes at end of article.

picketed that general contractor's subcontractors at that construction site. Such legislation would not allow union disputes with subcontractors to be spread to the contractor or the ultimate owner of the project (e.g., an industrial facility). It would not allow industrial disputes to be spread to a construction job site. It would not allow pressure against anyone (contractor or industrial facility) to force the removal of a non-union subcontractor. The fact that the "common situs picketing" proposal may grant all these additional rights and powers indicates that it is far more than a simple grant of equity to construtcion unions.

Further, the attempt through committee report language to thwart the recent Supreme Court decision in *Connell* as it affects the construction industry as well as the apparent attempt to grant extraordinary civil and criminal immunity to construction unions, go far beyond any proposal required to grant equality to the nation's construction unions. Finally, the attempt to limit injunctive relief in construction site strikes at a time when the Supreme Court is about to consider that issue as to all industries may result in another indirect grant of economic power beyond that available to industrial unions.

Clearly, then, the "common situs picketing" legislation does far more than provide equal rights to construction unions. The proposals, in fact, would grant construction unions rights and economic powers far beyond those accorded industrial unions in our nation. It may be that the Congress, either consistent with what it believes to be sound labor policy[28] and/or as a result of the extraordinary political power of the nation's construction unions, will see fit to enact such legislation. However, it should not do so with the idea that it is granting "equal rights" as its proponents slogan indicates. It should, it is submitted, understand the broad and extensive new powers it would be granting the already powerful building trades unions of this country.

FOOTNOTES

*Mr. Nash is presently a partner in the law firm of Vedder, Price, Kaufman, Kammholtz & Day. He previously served as General Counsel of the NLRB from 1971–1975.

**Mr. Obadal is presently a partner in the law firm of Zimmerman & Obadal. He previously served as the labor relations counsel for the U.S. Chamber of Commerce.

[1] See generally, H. Rep. No. 94–371, 94th Cong., 1st Sess., 1, 5, 9, 19 (herein "H. Rep.") and S. Rep. No. 94–438, 94th Cong., 1st Sess., 1, 4, 13, 15, 65, 69 (herein "S. Rep."). See Cong. Rec. p. 22657 (July 14, 1975). See Statement of Robert A. Georgine, President, Building and Construction Trades Department, AFL–CIO, before House Labor Subcommittee, BNA, DLR, pp. E–1—E–3 (June 5, 1975). The House Committee on Education and Labor specifically stated that the enactment of H.R. 5900 would not give workers in the construction industry any "special treatment" (H. Rep. 19). The title of the Senate Report is "Equal Treatment of Craft and Industrial Workers" (S. Rep. 1).

[2] See generally, H. Rep. 4–7; S. Rep. 14–15; Cong. Rec. p. 22657 (July 14, 1975). See also Statement of Secretary of Labor Dunlop before the House Labor Subcommittee, BNA, DLR, E–3 at E–4 (June 5, 1975). H. Rep. 5900 passed the House of Representatives on a vote of 230 to 178 (Cong. Record p. 24844 (July 25, 1975)).

[3] See H. Rep. 23–24, 40; S. Rep. 65.

[4] *Connell Construction Co.* v. *Plumbers Local 100*, 421 U.S. 616, 89 LRRM 2401 (June 2, 1975).

[5] 29 USCA § 158(b)(4)(B).

[6] 29 USCA § 158(e).

[7] 29 USCA § 158(b)(4)(A).

[8] *Laborers Union* v. *N.L.R.B.* (*Colson & Stevens Constr. Co.*), 54 LRRM 2247 (9th Cir. 1963); *Centlivre Village Apts.*, 148 NLRB No. 93, 57 LRRM 1081 (1964). Such agreements, however, are enforceable only by court or arbitration actions and not by strike or picketing activity. See, e.g., *N.L.R.B.* v. *Operating Engineers Local 12*, 48 LRRM 2776 (5th Cir. 1961); H. Rep. S. Rep 11, 12, 17.

[9] *Connell Constr. Co.* v. *Plumbers Local 100*, 421 U.S. 616 (June 2, 1975).

[10] *Ibid.*

[11] *Labor Board* v. *Denver Building & Construction Trades Council*, 341 U.S. 675 (1951).

[12] This case arose before enactment of § 8(e), so there was no question concerning any agreement between the general contractor and the union nor any question as to whether such an agreement would have been privileged by the construction industry exception to § 8(e).

[13] *Local 761, International Union of Electrical, Radio and Machine Workers* v. *N.L.R.B.*, 366 U.S. 667 (1961).

[14] See also, *Sailors Union of the Pacific* (*Moore Dry Dock*), 92 NLRB 547 (1950).

[15] *Markwell & Hartz, Inc.* v. *N.L.R.B.*, 387 F. 2d 79 (5th Cir. 1967). See S. Rep. 13.

[16] *Circle, Inc.*, 202 NLRB 99 (March 2, 1973), aff'd., 84 LRRM 3010 (5th Cir., December 12, 1973).

[17] See, eg., *Truck Drivers Local 413* v. *N.L.R.B.*, 55 LRRM 2878 (D.C. Cir. 1964). "Union signatory subcontracting clauses are secondary, and therefore within the scope of § 8(e). * * * This clause would be a union-signatory clause if it required subcontractors to have collective bargaining agreements with . . . unions . . ." (55 LRRM at 2884.)

[18] The situs picketing bill undoubtedly will aid in the proliferation of such agreements in the construction industry under the 8(e) proviso. This may become a matter of serious economic consequence since unions through concerted activity could, by withholding agreements from employers who meet their disfavor, drive such companies from the marketplace.

[19] *Truck Drivers Local 413, supra* at note 17. See, e.g., *N.L.R.B.* v. *Operating Engineers Local 12*, 48 LRRM 2776 (9th Cir. 1961).

[20] See *Circle, Inc., supra*, at note 16.

[21] The House bill uses both the terms "employer *primarily engaged* in the construction industry (an) agreed-to floor amendment which substituted that phrase for the word "person" used in the bill reported by Committee (see Cong. Rec. p. 24841, July 25, 1975) and the phrase "employers who are *in* the construction industry" (the only term used in the Senate bill (S. Rep. 38) to describe those with whom the primary dispute may exist. However, it is not clear that the distinction between "employers *in*" construction and "employers *primarily* engaged in construction was understood or intended (see textual discussion *supra* for an analysis of that distinction). Thus, the phrase "employer primarily engaged in" construction was an agreeed upon floor amendment with no discussion of the word "primarily" and was explained by Congressman Ashbrook, who offered the amendment, as merely clarifying the intent that the bill was to apply to persons "in" the construction industry. See also Supplemental Views of Marvin Esch, H. Rep., 30, where he describes the intent of H.R. 5900 as affecting only any individual employed by any employer engaged "in" the construction industry. Further, as noted above, the Senate bill reported by Committee continues to use only the phrase "employer *in* the construction industry." (S. Rep. 6, 38)

[22] H. Rep. 23. Cong. Rec. p. 22659 (July 14, 1975).

[23] H. Rep. 17. Mr. Ashbrook's amendment introduced at the House Subcommittee to prohibit picketing directed at forcing a non-union employer off the job site was defeated as being directly opposed to the purpose of H.R. 5900. (H. Rep. 19–20). The House bill clearly intends to allow picketing of the entire construction site when a contractor employs a non-union subcontractor. (H. Rep. 18.) The same is true of the intent of the Senate Committeee (S. Rep. 13–14, 72).

[24] H. Rep. 19. All contractors and subcontractors are to be treated as closely related to the normal operations of each, other, and all are to be involved in each other's labor disputes. S. Rep. 16. A dispute with a subcontractor is to be treated the same as one with a general contractor, allowing picketing of all the employees at the construction site.

[25] See S. Rep. 74. Section 8(b)(7)(c) (29 USCA § 158(b)(7)(c)) provides that a union may not picket an employer in furtherance of its demand that the employer recognize that union as the bargaining agent of the employer's employees unless a petition for an election among those employees has been filed within a reasonable period of time not to exceed 30 days from the start of the picketing. The NLRB and courts have construed this provision to allow recognitional picketing for 30 days except in extraordinary circumstances. One might think that such picketing which shuts down an entire construction site would be extraordinary, but nowhere has Congress indicated a desire that the NLRB treat it so. This is particularly significant, for only a little more than one year ago, when Congress brought non-profit hospitals under the NLRA, it went to special lengths to indicate that picketing of a health care institution would itself constitute an unusual circumstance "justifying the application of a period of time less than thirty days." (S. Rep. No. 93–766, 93d Cong. 2d Sess., 6.)

[26] Section 8(f) (29 USCA § 158(f)) of the NLRA contains the term "employer engaged primarily in the . . . construction industry." Section 8(e) (29 USCA § 158(e)) contains the term "employer in the construction industry." For their different and distinct meanings, see *Church's Fried Chicken*, 183 NLRB 1032 (June 24, 1970); and S. Rep. 21–22.

[27] *Church's Fried Chicken, supra*, at note 26.

[28] That the same principle is intended to apply to all industrial facilities under the proposed legislation seems clear from the Senate Report (S. Rep. 21–22).

[29] What is the "site construction" is undefined. Thus, many witnesses before Congress believed that the pending legislation would privilege picketing of industrial facilities when construction or repair at those facilities was taking place (H. Rep. 35). See also Cong. Rec. p. 24819 (July 25, 1975). Presumably, the Senate Committee intended that an industrial facility at which an addition was being constructed was to be part of the "site" of construction. (See the discussion in S. Rep. 21–22). Thus, presumably, when construction work in the nature of an addition to an industrial facility is being performed, it may well be that the entire facility itself is part of the construction site. (See *Lein Steenberg*, 219 NLRB 153 (August 6, 1975), where the NLRB held that construction of a new wing on a hospital is construction "at" the hospital.)

[30] See S. Rep. 22.

[31] See discussion at note 29, supra.

[32] It is interesting to note that the Senate Report does not seem to deal with this specific situation in detailing its examples of how this "double negative" clause would operate, thus, leaving a reader of the report with a distinct impression that the above discussed consequences are, in fact, intended (See S. Rep. 21–22).

[33] See notes 9 and 10, *supra* and accompanying text.

[34] Organized labor was obviously upset with the decision. Indeed, Rep. Thompson, Chairman of the House Subcommittee on Labor Management Relations, critically observed

during hearings on H.R. 5900, that *Connell* "... takes us back to 1914." (*Daily Labor Report*, June 5, 1975, p. A–10 (BNA, 1975)).

[33] Both the House and Senate Reports treat contractors and subcontractors on job site as one employer (see, e.g. S. Rep. 12, 13, 15–16, 19), thus, presumably eliminating any need for a collective bargaining relationship directly between a union seeking a § 8(e) construction site agreement and the general contractor.

[34] S. Rep. 12.

[35] H. Rep. 23.

[36] 254 U.S. 443 (1921).

[37] S. Rep. 9. Not only does the Senate Report disavow the "bargaining relationship" requirement of *Connell*, it also substantially undercuts the second element of the Court's *Connell* opinion, i.e., that for "hot cargo" agreements to be protected by the § 8(e) construction exemption they must be limited to specific job sites. Thus, the Senate Report states that "the right to strike as it was understood in 1947" has remained unchanged until the passage of this bill which "is the first in which the protections granted are limited in any way to a particular job site." (S. Rep. 21.) Further, the Senate Report states that the language of the bill "does not confine the activity permitted ... to a particular construction site or require picketing on a situs-to-situs basis; in that sense too it is identical to what was intended by the construction proviso to section 8(e)." (S. Rep. 18–19.)

[38] S. Rep. 14.

[39] Secretary of Labor Dunlop seated with respect to *Connell* at the House hearings on H.R. 5900 that "there is not much bearing of one on the other." (D.L.R., June 5, 1975, p. A–10) (BNA, 1975). This was reinforced in a published memorandum of Solicitor of Labor Kilberg. (D.L.R., July 1, 1975, pp. D–1–3) (BNA, 1975).

[40] S. Rep. 5, 43–44.

[41] *Buffalo Forge Co. v. Steelworkers*—F. 2d—89 LRRM 2304 (2d Cir. 1975); cert. granted—U.S. (October 20, 1975).

[42] For example, if a strike is called by Union A in sympathy with and in support of the strike of another union (Union B) who has a dispute with their common employer, there exists no basic underlying dispute between Union A and the employer which can be resolved under their bargaining agreement.

[43] *Boys Markets* v. *Retail Clerks Union*, 398 U.S. 235 U.S. 235 (1970).

[44] *Napa Pittsburg, Inc.* v. *Automotive, etc. Local 926*, 502 F. 2d 321 (C.A. 3, 1974) (*en banc*), cert. den. 43 U.S.L.W. 3328 (1974); *Monongahela Power Co.* v. *Local 2332, I.B.E.W.*, 484 F. 2d 1209 (C.A. 4, 1973); *Inland Steel Co.* v. *Local 1545, UMW*, 505 F. 2d 293 (C.A. 7, 1974).

[45] Thus, if construction union strikes in breach of their no-strike clauses are enjoinable only if the dispute underlying the strike is arbitrable, then construction unions will not have their "sympathy strikes" enjoined. However, if the Supreme Court holds that all strikes in breach of a "no-strike" clause are enjoinable, all other unions will be foreclosed from engaging in such sympathy strikes.

[46] S. Sep. 39. H. Rep. 28. The "Construction Industry Collective Bargaining Act of 1975" (S. 2305), reported by the Senate Labor Committee on the same days as S. 1479 contains even broader immunity provisions exempting national construction labor and contractor organization from incurring "any criminal or civil liability, directly or indirectly, for acts or omissions" stemming from activities under that bill. (Add cites.) The provisions of both bills must be scrutinized to fully appreciate the broadness of the exemptions from criminal and civil laws being given national construction unions. During the Watergate controversy many in Congress argued that no individual, not even the President, should be above the law and immune from the knowledgeable commission of unlawful acts. The lessons of that recent experience seem to have been quickly forgotten. See S. Rep. No. 940439, 94th Cong., 1st Sess., 16. See also DLR, Sept. 5, 1975, p. F–1 at F–2 (BNA, 1975).

[47] See, e.g., S. Rep. 25. See also H. Rep. 16, 25. The statement of law by the Committees may be somewhat restrictive, but is sufficient for our discussion in this paper. See, e.g., *Eazor Express, Inc.* v. *Teamsters*, 89 LRRM 3177 (3rd Cir 1975); *New England Tel. & Tel., Inc.* v. *I.B.E.W.*, 384 F. Supp. 752 (D.C. Mass. 1974); *U.S.* v *Hutcheson*, 312 U.S. 219 (1941).

[48] 29 USCA § 158(b)(1)(A).

[49] The hypothetical assumes a produce boycott, not an attempt to preserve bargaining unit work. See *Woodwork Manufacturers* v. *N.L.R.B.*, 386 U.S. 612 (1967).

[50] Not only would construction unions be more immune from liability than industrial unions, it is possible that their immunity would extend beyond that granted public officials who are immune in the performance of the official duties only when they perform in good faith and without malice and are not immune from prosecution for knowledge violation of the law. *Wood* v. *Strickland*, 95 S. Ct. 992 (1975). See *U.S.* v. *Brewster*, 408 *U.S.* 513 (1972).

[51] S. Rep. 25–26.

[52] As an example, the present provision could be amended to add the following language to it:

"except that this immunity shall not insulate from civil liability such national or international labor organizations when (1) the performance of acts under this statute are knowingly used to achieve an unlawful purpose, or (2) independent of the performance of act under this statute liability would otherwise be incurred."

[53] 29 USC 185(e). The labor law courts heavily upon the legislative history in order to determine and carry out the intent of Congress. See, e.g., *National Woodkork Mfgrs. Assn. v. N.L.R.B.*, 386 U.S. 612 (1967).

[54] Legislative History of the National Labor Relations Act, Vol. 2, p. 1617.

[55] Compare *Eazor Express, supra*, and *New England Tel. & Tel., Inc. v. I.B.E.W.*, 384 F. Supp. 752, 753 (D.C. Mass. 1974) wherein the courts discuss an international's liability for its locals' actions when the international possesses an ability to exercise control over those actions.

[56] H. Rep. 14, 23–24.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, at this hour of 10:18 o'clock on Monday morning, it can hardly be said that a rip-roaring debate is in progress on this measure, the so-called common situs picketing conference report.

Mr. WILLIAMS. I think the Senate should be in order, though, to hear the Senator from North Carolina.

Mr. HELMS. I thank the distinguished Senator, of course.

The Senator will be very brief because almost everything has been said, pro and con, on this measure that could be said and perhaps more than should have been said from time to time, especially the Secretary of Labor, Mr. Dunlop.

There is now a question, Mr. President, as to whether this measure, if indeed it receives final approval at 4 o'clock this afternoon by the Senate, will be vetoed by the President of the United States.

In that connection, Mr. President, I would call the attention of the Senate to a column by the distinguished James Jackson Kilpatrick, which appeared in newspapers throughout the Nation over the weekend. In Washington it was published by the Washington Star Saturday afternoon. It is appropriately headed "Common Situs, Cause for Presidential Veto." Mr. Kilpatrick, erudite as always began by stating that a showdown is at hand on the common situs bill; the bill ought to be vetoed.

Then he went on to say:

In any competition to choose the worst bill of 1975, H.R. 5900 would rank near the top. The purpose of the measure is plain and indeed undenied: It is to force non-union workers in the construction industry to join the building trades unions.

Mr. Kilpatrick continued:

The legislative mechanism is equally simple. This bill would overturn the famous Denver Building Trades decision of 1951. That Supreme Court decision (341 U.S. 675) upheld a provision of the Taft-Hartley Act making it an unfair labor practice to engage in secondary boycotts.

Mr. President, I shall not read the entire article. In a moment I shall ask unanimous consent that it be printed in the RECORD in its entirety. But let me read the last three paragraphs, in which Mr. Kilpatrick summarized his whole argument. He said:

Labor bosses defend the measure, of course, as no more than an innocent little bill to give equal treatment to craft and industrial workers. This is a smokescreen. Industrial workers in a given factory, may belong to different unions, but they are all employed by the same employer. The situation in construction is wholly different.

Then Mr. Kilpatrick concluded:

This is a bill to strike at small open shop contractors. It is a bill to dragoon free men, against their will, into joining some of the most violent, vicious, and disruptive unions in the country. A number of cosmetic provisions, intended to encourage peaceful collective bargaining, amount to so much bogus make-weight.

This is the all-around bad bill, as the President himself well knows. During his 25 years in the House—

Mr. Kilpatrick was referring to the President of the United States—

he opposed it all the way. Why would he change his mind now?

Mr. President, that says it all. If the President of the United States does not veto this very bad piece of legislation, then he will be making a serious mistake, in the judgment of the Senator from North Carolina.

I ask unanimous consent that the column by Jack Kilpatrick to which I have referred be printed in the RECORD in its entirety.

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

"COMMON SITUS" CALLS FOR PRESIDENTIAL VETO

(By James J. Kilpatrick)

A showdown is at hand on the "common situs" bill. The bill ought to be vetoed.

In any competition to choose the worst bill of 1975, H.R. 5900 would rank near the top. The purpose of the measure is plain and indeed undenied: It is to force non-union workers in the construction industry to join the building trades unions.

The legislative mechanism is equally sim-

ple. This bill would overturn the famous Denver Building Trades decision of 1951. That Supreme Court decision (341 U.S. 675) upheld a provision of the Taft-Hartley Act making it an unfair labor practice to engage in secondary boycotts.

The Denver case illustrates what this bill is all about. A general contracting company, Doose & Lintner, was erecting a building. A number of subcontractors were engaged on the job. Among them was Gould & Preisner, which had a $2,300 subcontract for electrical work. The firm for 20 years had employed non-union workers. The Denver Building and Construction Trades Council demanded that the contract be canceled, or that Gould & Preisner employ union electricians instead. When the general contractor refused, other unions put out a picket and the entire job closed down. After two weeks Doose & Lintner caved in and ordered Gould & Preisner off the site. The subcontractor took the matter to the NLRB, which found an unfair labor practice. On June 4, 1951, in a 6–3 decision, the Supreme Court affirmed.

The important thing, said the Court, was that the dispute did not involve employes of the general contractor. So far as the record shows, Gould & Preisner had no disagreement whatever with its own workers. The assumption, in a free society, is that the non-union workers had a right to work, and that the electrical subcontractor had a right to compete for jobs. These rights would be effectively abolished if the pending common situs bill becomes law.

Every consideration of morality, common sense, and practical politics argues in support of the veto.

It is morally wrong—there is no way to make it right—for unions to abuse their power in the fashion here demanded. Of the 4.7 million workers in construction, some 1.8 million belong to no union. They prefer it that way. More than 80 per cent of those involved in small construction are nonunion. These are the carpenters, bricklayers, electricians, plumbers, and manual laborers who work for small companies. They are overwhelmingly opposed to the bill.

His common sense should tell Mr. Ford what enactment of the bill would mean in economic terms: strikes, disruption, violence on building sites, greatly increased costs of construction across the country. It is unbelievable that the President could invite this blow to an economy slowly struggling for recovery.

The political considerations scarcely need to be spelled out. Mr. Ford will not win a single vote from union zealots by signing the bill. Fanatical union members will oppose him willy-nilly. But if the President has nothing politically to gain, he has much politically to lose. Business and industry are solidly opposed to the bill. A survey by the respected Opinion Research Corporation found 68 per cent of the people (including 57 per cent of union members) opposed to the bill. Such liberal newspapers as *The New York Times* and the *Louisville Courier-Journal* have made common cause with conservative newspapers in opposition.

Labor bosses defend the measure, of course, as no more than an innocent little bill to give equal treatment to craft and industrial workers. This is a smokescreen. Industrial workers in a given factory, may belong to different unions, but they are all employed by the same employer. The situation in construction is wholly different.

This is a bill to strike at small open shop contractors. It is a bill to dragoon free men, against their will, into joining some of the most violent, vicious, and disruptive unions in the country. A number of cosmetic provisions, intended to encourage peaceful collective bargaining, amount to so much bogus make-weight.

This is the all-round bad bill, as the President himself well knows. During his 25 years in the House he opposed it all the way. Why would he change his mind now?

Mr. JAVITS. Mr. President, who controls the time?

The PRESIDING OFFICER. The Senator from New Jersey and the Senator from North Carolina.

Mr. WILLIAMS. I yield to the Senator from New York such time as he may need.

Mr. JAVITS. Mr. President, we are now considering the conference report on H.R. 5900, which we passed on November 19, 1975. As passed by the Senate, and agreed upon by the conference committee, this bill incorporates the Construction Industry Collective Bargaining Act as title II.

We are all aware that a number of amendments were adopted in the House and Senate to narrow its scope, which had to be resolved in conference. After 2 days of work on this legislation, the conferees have reached an accommodation which I believe is basically sound and which very substantially maintains the Senate position. As the ranking minority member of the Senate Labor and Public Welfare Committee, and as one of the conferees on this legislation, I can assure you that thorough consideration was given to the Senate provisions and that in every instance their essence is retained in the report of the conference committee.

Title I of the bill, concerning the protection of the economic rights of labor in the construction industry, erases the artificial distinction that has been made by the courts, beginning with the Denver Building Trades case, between strikes which are permitted by construction unions against employers with whom they have a lawful dispute, and those strikes which are prohibited because they attempt to force neutral employers to cease doing business with the primary employer.

In that case, the Supreme Court held that each of the construction contractors and subcontractors are separate employers, neutral as to each other, and that picketing in furtherance of a labor dispute against one employer could therefore not enmesh other contractors at the site. The common situs picketing legislation simply overturns the Denver Building Trades case in recognition of the economically integrated nature of the construction industry.

Construction projects almost always involve the combined effort of many contractors working together under the direction of a general contractor. As Mr. Justice Douglas pointed out in his dissent in the Denver Building Trades case, the separate contractual relationships among contractors at a construction site are "fortuitous business arrangements that have no significance so far as the evils of the secondary boycotts are concerned." These secondary boycott provisions incorporated in the Taft-Hartley amendments were adopted in the context of plan and retail situations, and were designed to protect the neutral employer handling the products of the employer with whom the union has the primary dispute. The proponents of the secondary boycott provisions did not refer to the construction industry for common situs picketing at construction sites. Thus, the basic purpose of title I of this legislation is to correct the misinterpretation that has been given to the act with respect to common situs picketing in the construction industry.

As to the differences between the House and Senate versions of this legislation which were required to be resolved by the conference committee, the key issues involve title I, the common situs picketing legislation. I particularly wish to call your attention to the agreement reached on two important amendments adopted on the floor of the Senate.

The first is the residential housing amendment offered by Senator BEALL, designed to exempt from the common situs picketing provisions the construction of residential structures of three stories or less without an elevator. The House bill contained no similar provision. In his statement in support of the amendment, I believe that Senator BEALL expressed its basic intent when he said:

> This amendment is aimed at the typical small businessman home builder who builds the major share of housing units in this country. He traditionally builds from 1 to 25 units a year and employs only a few craftsmen directly.

After this amendment was adopted, and just before Senator ALLEN generously withdrew his motion to instruct the Senate conferees with respect to it, I said, in part:

> The amendment appealed to a majority of the Senate because it dealt with small builders and small projects . . . I am confident we will bring back a reasonable and honorable provision which will truly reflect the Senate's purpose intent.

I am pleased to report to you that, in my judgment, we have done just that. The conference agreement provides an exemption for those contractors who are involved in the construction of structures of less than three residential levels and who are within the Small Business Administration's definition of a small businessman in the residential construction industry—currently those whose gross receipts are less than $9.5 million in a year.

Two points concerning the figure $9.5 million should be noted. First, the number will be adjusted annually in order to reflect any increase or decrease in the cost of construction. Second, the $9.5 million figure takes into account all construction which a contractor engages in and is not limited solely to residential construction. At this dollar level, I estimate that more than 80 percent of those contractors involved in the construction of this type of residential housing, both single family and multifamily, will be exempted from the operation of this legislation.

I believe, Mr. President, that all agree upon this solution as being one that closely parallels the real feeling of the Senate. I might say that I made it my personal duty, as I promised the Senate I would, to keep in close touch with Senator BEALL and others interested during the time of the negotiation, in order to keep them advised as to what we were accomplishing.

The second Senate amendment was that offered by Senator ALLEN to exempt from the provisions of the bill construction work on which work had actually started by November 15, 1975. This amendment was intended to eliminate possible abrupt disruptions of existing projects upon the effective date of the Act. The agreement reached by the conferees, in my judgment, preserves this basic purpose. As to construction work which was not begun on or before November 15, 1975, title I will go to into effect 90 days after the enactment of the bill. With respect to construction work which had actually begun on or before November 15, 1975, which has a gross value of $5 million or less, the effective date is 1 year after the effective date of enactment. For projects with a value of more than $5 million, the effective date will be delayed for 2 years from the effective date.

Finally, Mr. President, an amendment came to us from the other body which presented some considerable problem to us. That was the so-called Ashbrook amendment, which related to common situs picketing directed at employees who were not employees of contractors on the job.

We resolved that question pretty much along the lines which carried out the substance of what was sought, and it is best defined in paragraphs 5 and 6 on page 14 of the statement of the managers in the following examples:

The next paragraph:

The Conference amendment is not intended to preclude a union at a construction site from exercising its right to primary picket or otherwise induce the employees of employers not in the construction industry when making deliveries, etc., to the construction employer or employers with whom the union has a primary dispute.

The conference amendment does not prohibit separate gates, but does prohibit common situs picketing of employees of the employers not in the construction industry when making deliveries, etc., to the construction employer or employers with whom the union does not have a primary dispute.

In any case, that is the compromise which we arrived at on the Ashbrook amendment, which turned on the question of with whom did the employees, who were picketing, have a primary dispute, and that is the essential definition which was locked into the compromise.

There were other compromises arrived at. We dealt with problems of organizational picketing. That was Senator HATHAWAY's amendment, and I have rarely seen a more spirited fight for a position than that made by Senator HATHAWAY; I only express the hope that the scheme embodied in the amendment can be operationalized because the limit of 14 days for an election is a very short time. We will do our utmost, however, by way of the oversight activity of the Committee on Labor and Public Welfare to make good on this time limitation.

Also, there is very tight provision in which the Senate yielded to the House on the matter of not allowing any discrimination between union and nonunion employees in respect of the object of picketing.

State separate bidding statutes were respected.

There is one provision that I wish to comment on with particularity, a provision which has not had the consideration and attention to which I think it is entitled. This is the provision respecting notice to an international union of a prospective picketing of a situs of a construction project and the requirement that that international union give its consent to such picketing.

I flag this as a very critical matter of legislative oversight because I believe this represents an exercise of statesmanship and responsibility by the international unions which are involved. I hope that they will hear me on this subject loud and clear because the reason we put this provision in is to guard against the specter of a small number of workers shutting down a project which might employ hundreds of workers who are not involved in the dispute.

I issue an invitation to employers to let the Senate committee know if they feel that this particular provision is not being used for the therapeutic purposes for which it was designed. It will then be our job to be sure that it is so used because I believe that it has not been adequately discussed as a real protection against vexation, opportunistic or oppressive common situs picketing.

I say to organized labor that there is nothing that could destroy this act sooner than irresponsibility on the part of internationals, shutting their eyes to obvious situations in which it is counterproductive to the workers, to the stability of employment, and to the effectuation of the economic security of the country, not to intercede in a situation where common situs picketing, as a matter of policy, should not take place. Let us remember that this was one of the very solid conditions which the Secretary of Labor, a man of vast experience, insisted on as one of the qualifications for a situs picketing law which the President could sign.

I end upon the phrase "which the President could sign." As we are all aware, there has recently been a good deal of public discussion as to whether or not this legislation will be approved by the President. I would like to point out that, in meetings with me and other Members of Congress, the President has clearly indicated his intent to approve this legislation as long as certain conditions were met. These conditions, involving the additional enactment of the Construction Industry Collective Bargaining Act, now included as title II of H.R. 5900, and amendments providing prior notice and related requirements with respect to common situs picketing, have been fully incorporated in the bill.

Secretary Dunlop specifically described the amendments sought by the administration in his testimony before the committee. He recommended one amendment "requiring 10 days' notice to the standard national labor and management organizations engaged in collective bargaining in the industry whose local unions or member contractors are involved in or affected by the dispute." He added:

I would also suggest the principle that authorization of such picketing by the appropriate national union be required.

These amendments, which Secretary Dunlop has explicitly assured us completely meet the terms of his recommendations, are contained in H.R. 5900 as a new section 8(g)(2) of the National Labor Relations Act.

During the hearings on the Construction Industry Collective Bargaining Act, I questioned Secretary Dunlop in the President's position with respect to both bills. He replied:

It is clear that if the two come to him and he said he supports them he will find them acceptable.

When I asked him for even further clarification, he said in reference to the common situs picketing bill:

I have testified before this committee before, Senator Javits, in support of the earlier bill with the amendment that I proposed and I said to this committee then, which was correct, that I have been specifically and personally authorized by the President of the United States to make that testimony. I have had those instructions changed in no way since that time.

In addition, on at least two occasions the President has publicly reaffirmed this statement. For example, he concluded one of these statements by saying:

If these amendments are approved, I will support it; if they are not approved, I will veto it.

Mr. President, I ask unanimous consent that the President's public statements be included at this point in my remarks.

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

[From Presidential Documents: Gerald R. Ford, 1975, Aug. 25, 1975, page 909]

SITUS PICKETING LEGISLATION

Q. Mr. President, one of the job bills or one of the bills that the construction industry here in the State of Wisconsin is vitally interested in is Senate bill 1479, which many of the contractors seem to feel would provide for an illegal secondary boycott. There have been some direct appeals, I know, to your office on 1479. Have you reviewed the bill? Have you made any kind of decision as to whether you will veto that bill or let it go by?

The PRESIDENT. About 3 months ago, Secretary of Labor Dunlop appeared before the House and Senate Committees on Education and Welfare, and he testified that if the original so-called situs picketing bill were modified with three amendments—at least two amendments—it would be acceptable.

One of those amendments would provide that before you could have on-site picketing, it would require a 10-day cooling off period.

The second provision that would be mandatory as a part of the bill would be that no local could go on strike under those conditions without having gotten prior approval from the international.

Now, in my opinion, those two added amendments would make that bill acceptable, plus one other factor: There is also a bill that the Secretary of Labor is working on, with both management and labor, which in effect provides that there shall be greater responsibility for both labor and management on strikes and lockouts.

If that second bill comes to the White House with the original bill plus those two amendments, then I think we have put together, working with management and labor

and the Congress, an acceptable solution to this long-standing conflict.

[From Presidential Documents: Gerald R. Ford, 1975, Sept. 22, 1975, page 1003]

COMMON SITUS PICKETING

Q. Mr. President, I am Earl Dille, president of Associated Industries of Missouri, and I would like your position on the issue of the legalization of common situs picketing at construction projects.

THE PRESIDENT. I believe that the legislation originally introduced should be vetoed. I believe that there are amendments that have been added, that will be added, if they are added to force local union responsibility, then the legislation ought to be approved. I know the arguments that the building trades have gotten wage hikes of too high or too great an amount, and people say, "Don't change the law."

My answer to that is they have gotten them under the present law. If they are inflationary, they came under the present circumstances. What we are trying to do with the amendments that we have advocated is to get some responsibility at the local level, and if they don't achieve local responsibility the international unions have the right to veto it. I think that is a better way to achieve wage stability in the construction field, and if those amendments are approved, I will support it; if they are not approved, I will veto it.

Q. Thank you, sir.

Mr. JAVITS. Mr. President, we have incorporated in this bill, in the most direct and honorable way, the basic conditions laid down by the President with the hope of realizing the quarter of a century old promise that this measure of justice would be done to construction labor.

As is true in connection with any antidiscrimination legislation, those who oppose this legislation—mainly employers in the construction industry—portend of absolute disaster if the measure is enacted.

This prediction of disaster is similar to those of 1945, when the first bill was passed against employment discrimination on grounds of race, creed, or color in my home State of New York. I have read the testimony, through the decades in which I have served in this body and the other body, as to the disastrous impact equal opportunity legislation would have; how thousands of employers would be bedeviled, spend all their time in hearing rooms and in courts because of the impositions of boards and officials utilizing the antidiscrimination law of the State of New York. Nothing like that ever happened.

I served as the chief prosecutor of New York for 2 years and had a great deal of personal experience with this matter. First, the cases were not nearly as numerous; second, they often were readily adjusted; and, third, it was by no means a difficult question of evidence to enforce the standards which were allegedly too subtle and too uncertain, said its opponents, in respect of nondiscrimination in employment.

Mr. President, the same is true of this situation. The dire predictions made about how this bill will cripple the industry by enabling small groups of workers to victimize employers and tie up huge construction sites are similar to arguments made against other nondiscrimination laws which have proven to be groundless.

Finally, as I have already indicated, title II of this bill incorporates the administration's proposal to bring about structural reform of the collective bargaining process in the construction industry. We know that collective bargaining in this industry has too often been characterized by inflationary wage agreements, costly work stoppages and inefficient manpower utilization. The successful experience of the Construction Industry Stabilization Committee, created under the Economic Stabilization Act of 1970, demonstrated the wisdom of governmental assistance, working through the international construction unions and the national contractor associations, to curtail whipsaw agreements and bring about more stable labor relations and economic growth in this industry. For example, under the DISC the rate of first year wage increases declined over a 4-year period from 17.6 percent in 1970 to 5.0 percent in 1973.

The bill in title II establishes a Construction Industry Collective Bargaining Committee composed of 10 management and 10 labor representatives, and with up to three neutral members, all appointed by the President. The Secretary of Labor and the Director of the Federal Mediation and Conciliation Service will be ex officio members. This committee, building on the previous experience of the Construction Industry Stabilization Committee, will identify pattern-setting collective bargaining agreements in the construction industry which have a potentially disruptive and unsettling effect on bargaining in the industry generally. It will have the power to intercede before such agreements are finally reached by the parties. It can, with the assistance of the parties themselves, head off unnecessary strikes and inflationary wage agreements that threaten to disrupt established patterns across the country. It will also be expected to promote agreements covering more appropriate geographic areas, encourage measures to rectify what is widely recognized as an unwieldy and unstable labor relations situation in the construction industry.

So Mr. President, for all those reasons, I hope very much that the Senate will approve this conference report. It is quite obvious that that is likely to be the outcome of this debate. I also hope that the President will honor a quarter-of-a-century-old promise. We have incorporated all the provisions that he and his very gifted Secretary of Labor have asked us to incorporate and have given to him in one package two bills which will go far to stabilize labor relations in a heretofore unstable industry.

I feel that there would be great dismay in the country should anything other than approval of this long-promised and long-deferred remedy for discrimination, suffered by construction industry labor for so many years.

In sum, Mr. President, I believe that titles I and II of this legislation represent an important new development in Federal labor relations policies. It will, I believe, substantially enhance the prospects of peacefully resolving labor-management disputes in the construction industry, and bring about a most needed national framework for collective bargaining in this vital sector of our economy. This legislation, as resolved by the House and Senate conferees, warrants the strong support of the Senate, and I urge its prompt enactment.

Mr. WILLIAMS. Mr. President, I appreciate the statement of the Senator from New York, as I am sure other Members of the Senate will. It describes fully how we approached the conference and what the end result was. I join with the Senator from New York.

In meeting with the President in July, the Secretary of Labor presented certain ideas that he thought should be included in the situs picketing bill. He also, of course, discussed the development of the collective bargaining bill and made clear to us what would be the content of legislation that would lead him to recommend a Presidential signing of legislation to come from Congress. We have included all the points. Specific things were suggested by the Secretary, and they have been included.

In the wisdom of Congress, the areas permitted for situs picketing have been defined more closely and more narrowly than was presented to us by the Secretary of Labor in two particular situations—residential construction and the application of situs picketing to work already in progress on November 15. There is a greater limitation on the opportunities to use picketing at the entire site, than was discussed in July. Congress has narrowed the opportunities and tightened up this legislation. I suggest that it should have, from the President's viewpoint and from his desk, greater appeal than the bills that were discussed with him in July.

So if the Senate, in its wisdom and after the vote occurs this afternoon should agree to this conference report, I believe that a very volatile and difficult area of labor-management relations will be much improved.

There is, I believe, a great impatience in the country with the current operational methods in construction labor, particularly with local autonomy, with whipsawing, and with other pressures increasing the cost of construction. This bill, in its totality, will bring, in an operational way, new tools and new methods for greater effectiveness in peaceful labor-management relationships and collective bargaining in the construction industry. The elements are here for lifting the decisions in bargaining from the local level to a higher level. With that, I think we will have the wisdom of national experience brought forward to bear in the local situation, and we will have less of the whipsawing and all of the other local pressures that tend to disrupt negotiations and drive up prices. I think it will be a wholesome thing for the economy if we agree to this conference report and if the President should sign the bill.

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

The PRESIDING OFFICER. On whose time?

Mr. HELMS. Mr. President, I ask unanimous consent that the time consumed by the quorum call be charged equally to both sides.

Mr. WILLIAMS. I do not object.

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. WILLIAMS. 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. WILLIAMS. Mr. President, I ask unanimous consent that, after calling again for the roll and suggesting the absence of a quorum, the time be charged to neither side.

Mr. HELMS. Mr. President, reserving the right to object, I believe we have a previous order to return to another piece of business at 12.

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. In that case, I ask unanimous consent that the time be charged to my side.

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

Mr. HELMS. 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.

ORDER FOR RECOGNITION OF SENATOR FANNIN, SENATOR GARN, AND SENATOR McCLURE TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that Senators FANNIN of Arizona, Garn of Utah, and McCLURE of Idaho be recognized for not to exceed 15 minutes each after the joint leaders have been recognized tomorrow morning.

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

RECESS UNTIL 11:15 A.M.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 11:15 a.m.

There being no objection, the Senate, at 10:54 a.m., recessed until 11:15 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. HATHAWAY).

ECONOMIC RIGHTS OF LABOR IN THE CONSTRUCTION INDUSTRY—CONFERENCE REPORT

The Senate continued with the consideration of the conference report on the bill (H.R. 5900) to protect the economic rights of labor in the building and construction industry by providing for equal treatment of craft and industrial workers.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TAFT. 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. TAFT. Mr. President, I would like to address a few remarks this morning to the conference report on the Common Situs Picketing and the Construction Industry Collective Bargaining Act, H.R. 5900, which passed both bodies of the Congress to modify the construction union picketing rights and reform the collective-bargaining process.

Mr. TAFT. Mr. President, H.R. 5900, passed by both bodies of Congress, modifies construction union picketing rights and reforms collective bargaining in the construction industry. Title I relates to the right of construction workers to peacefully picket in support of lawful goals in a labor dispute. Under title II, the process of collective bargaining in the construction industry has been restructured to make it more responsive to the need for stable labor-management relations.

I voted in favor of final passage of the Senate-passed version, as well as the conference report. I did so, for the reasons set forth herein, only after thorough study of the intricacies of labor relations in the building industry and the possible effect of this bill upon them. I believe that the bill is now carefully drawn to meet a specific justifiable objective. Moreover, I believe it embodies sufficient safeguards so as to prevent undue disruption to or adverse impact upon the construction industry. I offered and supported successfully a number of amendments to insure that the change to the picketing rules did not result in their misuse to the detriment of genuine innocent neutrals.

Title I of the bill, relating to common situs picketing, contains a carefully designed and limited right to engage in primary picketing activity for workers in the construction industry comparable to and limited to that which the National Labor Relations Act permits in other sectors of the work force. The basic purpose of title I is to bring the National Labor Relations Act into conformity with the reality that employers who are working together at a construction site are not the uninvolved neutrals in each others' labor disputes that the Taft-Hartley law was designed to protect. Accordingly, it overrules administrative and judicial case law that interpreted the law otherwise for nearly 25 years. It follows the position advocated by President Eisenhower and all Presidents since.

In essence, the amendment merely states that a contractor and subcontractors on a building construction project at one site are to be treated as an integrated enterprise and that, when there is a labor dispute, the union having the dispute is to be allowed to engage in normal, peaceful primary picketing at the entire site of the dispute.

However, in order to insure that this congressional permission to engage in common situs picketing does not include activity that is presently unlawful, the bill explicitly states that it is not to be construed to permit picketing of an entire construction site when:

The labor dispute is "unlawful under this Act (National Labor Relations Act, as amended) or in violation of an existing collective bargaining contract" between the picketing employees and their employer;

The object is to force another union's members off the job;

It discriminates against any employee on the basis of sex, race, creed, color, or national origin;

An object is to exclude any employee from the site on the basis of his union membership or lack of union membership;

The picketing is for the purpose of committing any other unfair labor practice as defined in the section 8(b) of the Act;

The picketing is for the purposes of engaging in a "product boycott";

The object is to induce to picket or to strike any individual employed by any employer not primarily engaged in the construction industry on the site such as utility companies, manufacturers, department stores, petroleum companies, transit companies, and so forth, although they do construction work both within their premises and elsewhere.

The bill also provides that where picketing at a construction site is carried on for purposes of organization or recognition, the National Labor Relations Board must conduct an expedited election, and certify the results thereof within 14 days after a petition and a charge have been filed with that agency. This provision thus restricts further the use of common situs picketing where a labor organization's organizational and recognitional objectives are involved. The present law restricts picketing to a reasonable period not to exceed 30 days for such a purpose.

In order to minimize labor strikes at construction sites and to encourage the peaceful resolution of disputes, the bill provides a cooling off period during which the international union and Federal mediators can use their best efforts to resolve the dispute. To do this, the amendment prohibits picketing of an entire site until the striking union has given 10 days advance notice to all employers and labor organizations engaged at the site, as well as to the international labor organization with which the local is affiliated. In the event the site is a military facility 10 days advance notice must also be given to the Federal Mediation and Conciliation Service, to any equivalent State agency, and to the Government agencies concerned with the particular facility.

In all cases the striking union must then receive written authorization from its parent national or international union as a condition precedent to engaging in valid common situs picketing. An obvious purpose of this provision is to put responsibility on the international union so as to prevent "whipsawing" of local union leadership by pressure from their membership for uneconomic increases.

In addition, I offered another amendment which was adopted and which further restricts what would otherwise be valid primary picketing activity in order to recognize overriding competing interests. Therefore, the bill does not permit common situs picketing against employers who have been awarded separate contracts pursuant to the requirements of State-separate bidding laws regulating public construction. Ohio is one of these States which has a State law applicable to this situation.

Moreover, I introduced another amendment which has been adopted which specifically affirms the authority of the Federal courts to enjoin picketing in violation of a no-strike agreement over issues which are subject to resolution through final and binding arbitration or other method of final settlement of disputes.

I would note that in the Buffalo Forge case this issue is already apparently on its way to the Supreme Court in a court of appeals case which has considerably cut into the impact of the Boys Markets case.

I believe that this amendment is particularly important by virtue of the Supreme Court's decision to review the rationale of the Boys Markets case which establishes the right of an aggrieved employer to seek injunctive relief for breach of contract violations of no-strike provisions. Without this provision in statute this vital doctrine might otherwise be subject to court reversal or weakening.

Furthermore, I cosponsored an amendment which exempts the residential housing industry from the coverage of this act. The amendment is limited in that it is predicated upon the annual gross volume of construction business which a residential housing builder performs in an annual year. Thus, construction of residential structures of up to three residential levels is exempted from this bill involving contractors who, alone or with others, in the preceding year earned in the construction industry, a gross volume of less than $9.5 million, with this threshold adjusted annually to reflect changes in housing construction costs.

While I preferred the blanket exemption for the housing industry which was passed on the Senate floor, and fought for its inclusion in the conference report, the compromise appears to be acceptable in light of the fact that the amendment will exempt in excess of 80 percent of all residential homebuilders from the operation of the situs picketing provision of the act.

Finally, the bill contains an amendment which delays the effective date for 1 year for construction projects valued at $5 million or less on which work had actually started on November 15, 1975, and delays the effective date for 2 years with respect to such projects valued at more than $5 million. Of importance is the fact that this "grandfather clause" will not stay the operation of title II of this act.

Under title II, commonly known as the Dunlop bill, which I cosponsored, the process of collective bargaining in the construction industry has been redesigned to make it more responsive to the need for stable labor-management relations. This collective bargaining procedure should go a long way to bringing order to the chaotic and inflationary contract settlements which have plagued the industry in recent years thereby reducing its ability to survive and compete effectively.

Title II of the bill contains provisions designed to reform collective bargaining in the construction industry by establishing a national focus on contract negotiations. Collective bargaining in the construction industry has been traditionally marked by fragmented and sometimes divisive bargaining procedures. While in large part this fragmentation is the result of the nature of the industry itself, a national coordination of such bargaining will improve both its effectiveness and its success. The need for this bill results from the fact that the national parties have been unable to focus this necessary attention at the national level through voluntary methods.

To assure this stability, the bill establishes a construction industry collective bargaining committee, CICBC, to be comprised of 23 members appointed by the President, 10 members representing construction contractors, 10 members representing national construction unions, and 3 members of the public. The Secretary of Labor and the Director of the Federal Mediation and Conciliation Service, FMCS, shall also serve as ex-officio members.

The council will exert direct influence over collective bargaining in the construction industry by requiring that all contract modifications and terminations become subject to review at its discretion. This process will take place in the following manner:

The council must be notified 60 days prior to any contract modification or termination;

All national unions with which local unions are affiliated and national employer organizations must also be given similar notice;

Within 90 days after the receipt of the notice of either contract termination or modification, the council may assume jurisdiction over the issue;

If the council takes such jurisdiction, during the 90-day period it will then work with the appropriate national unions and employer organizations to achieve a peaceful resolution of the dispute;

Once the council has assumed jurisdiction and requested the participation of the international union the appropriate national or international union must approve any ensuing negotiated contract by a local union unless the council withdraws such approval power.

In order to allow the collective bargaining process a chance to work effectively, during the time that the council has jurisdiction over a pending dispute, a mandatory 30-day "cooling-off" period is provided for.

There is no intention to establish compulsory arbitration under the provisions of title II, or give the CICBC authority to dictate terms and conditions to local unions in their bargaining process. However, the Council, by invoking jurisdiction under this title can act to mediate labor disputes which are of pattern-setting nature between local unions and employers, and to involve both national unions and national employer organizations in the bargaining process. This function will, in itself, provide for more thorough and more careful bargaining, thereby increasing its effectiveness and relating it to economic realities and the public interest. In sum, it is the intention of the Congress to interject a body—the Council with a national view of labor-management relations in the construction industry—into the local bargaining process to allow that process to flow more smoothly, and, at the same time to provide a dispassionate arbiter of local disputes.

I believe that the act, which embodies both the common situs picketing proposal and the collective bargaining stabilization procedures, will not adversely affect the construction industry. Under both provisions, management and labor know that there must be mutual cooperation and restraint if the industry is to flourish. In my view, these two legislative proposals will form a new plateau from which labor and management can advance and improve their relationship in the construction industry, thereby ultimately benefiting the public interest.

In short, despite the highly political rhetoric and the Cassandra-like cries of alarm, this legislation will do the following:

It will allow picketing by construction workers on the same basis and only the same basis as other covered workers;

It will require the written approval of international building trades unions for common situs picketing by their locals and provide a 10-day cooling-off period before it occurs;

It will enact statutory approval of injunctions against violations of no-strike clauses involving construction industry collective bargaining agreements;

It will improve bargaining relations procedures in the construction industry and provide a 30-day cooling-off period after contract termination or modification;

It will limit to a maximum of 14 days common situs picketing in support of an organizational or recognitional objective.

On the other hand, it will not do the following:

It will not make legal any practice not now permitted other than situs picketing under the conditions specified;

It will not apply to residential construction for builders under $9.5 million volume;

It will not affect State right-to-work laws;

It will not permit now-illegal product boycotts;

It will not apply to employers not primarily engaged in the construction industry on the site;

It will not permit situs picketing to exclude employees on the basis of union or nonunion membership, sex, race, creed, color, or national origin or to force another union's members off the job.

In total, it promises to improve labor

relations in the construction industry in a just and equitable manner.

Mr. JAVITS. Mr. President, I think the arguments have been made very adequately on both sides. I would like to pay a special tribute to the Senator from Ohio (Mr. TAFT), who took a very great interest in this legislation and proposed a number of very helpful amendments to it, and who I know can be relied upon, as I feel I can, in respect of the oversight which is necessary to a statesmanlike utilization of the various functions that would be assigned to internationals, to members, and to the ultimate selling feature of the continuation of the very good experience with the construction industry stabilization committee.

Mr. President, if other Senators do not wish to be heard, with the consent of the Senator from North Carolina, I would suggest the absence of a quorum, with the time to be charged equally to both sides.

The PRESIDING OFFICER (Mr. HASKELL). There is no further time for the proponents of the legislation, and therefore the time would have to come out of the time allotted to the Senator from North Carolina.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HELMS. 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. HELMS. Mr. President, I yield the distinguished Senator from Nevada (Mr. LAXALT) such time as he may require.

Mr. LAXALT. Mr. President, I make my statement for the record recognizing whatever is said at this point probably will not alter the result among my colleagues here in the Senate, but I think perhaps this issue should once again be drawn into perspective.

I happen to be the sole member of the Committee on Labor and Public Welfare who voted against situs picketing when it came out of that committee. From that low base, through the concerted help of many people throughout this country who finally became aware of the ramifications of this bill, we developed 45 votes on the Senate floor, and we won one cloture vote.

I think the reason why we were able to muster that kind of support was the fact that my colleagues in this body, to their great credit, upon close analysis of this measure recognized that it was an atrocious piece of legislation.

This proposal had been in the halls of Congress for some 25 years, and had never surfaced above the committee level, because Congress over the years recognized that the thrust of this bill was simply to legalize the secondary boycott, thereby penalizing innocent parties in construction disputes.

This year, not accidentally, for the first time there was sufficient political support mustered by organized labor to make the move, and the move was made and apparently was made successfully at least here in Congress. But during the course of those deliberations, upon close analysis, defect after defect was uncovered in connection with the bill.

I will not at this time bore our colleagues with once again reciting what the negative effects of this piece of legislation are, because they are numerous and there are several.

The bottom line would mean that as to a construction industry already beleaguered with sufficient difficulties we are going to add to those difficulties.

On the bottom line was the fact that we are going to add substantially to the inflation problem of an industry already burdened with inflation.

On the bottom line was the fact that we are going to add materially to devisiveness among union and nonunion people and among union people themselves.

Also on the bottom line was the fact whether or not the proponents would agree, and they do not, this was a vital thrust at the vitals of right-to-work because this piece of legislation emanated in Denver out of a classic right-to-work situation where a nonunion subcontractor was taken off the job because he was nonunion, and it was testified to in the House that it was the hope of the union people supporting this legislation that henceforth on every union job there would be no nonunion subcontractors.

This despite the fact that we have some 20 right-to-work States. This despite the fact that throughout this country we have any number of mixed jobs working very well in which there has been a combination of union and nonunion subs. This despite the fact that this piece of legislation would prove very detrimental to the union people who have worked satisfactorily in this situation. What was unusual during the last several days throughout both these houses is the fact that the union people finally came to grips with the problem that beset them because even if a typical job were totally union, under this situation, it meant if there were a dispute with a union subcontractor that some other union subcontractor could be driven off the job even though they were not parties to the dispute.

So everyone loses in this bill, except the people in organized labor here in Washington who want it for their own interest. It is no more complicated than that.

I recognize the conference report was passed in the House, and I recognize that it will probably be passed this afternoon. But I state once again for this record that this is a harmful piece of legislation. In an area of labor and collective bargaining, it is the most harmful piece of legislation that has hit the halls of Congress in 25 years.

If this bill is not vetoed by the President, the time will come when everyone is going to regret this decision.

I am a freshman Senator around here, but I had the unusual and unique honor of managing this bill in the Chamber, and I have had an opportunity during these last few weeks to talk to almost every individual Senator in this Chamber, either here or elsewhere, and I have yet to find a Senator who without qualification will tell me this is a good piece of legislation; to the contrary, even those who strongly supported it in the committee and here in the Chamber, have expressed reservations about where this piece of legislation is going to go and that it should be monitored.

That being the fact, the flag is already up because if we have that kind of reservation expressed by Senators in this Chamber about where this legislation can go, we all have a problem.

I hope that the President when he comes to grips with the fact that there were 45 votes in this Chamber in opposition to this piece of legislation and when he samples what the American public throughout this country thinks of this piece of legislation as evidenced by thousands of pieces of communication in the White House, as evidenced by uniform editorial opinion throughout this country opposing this piece of legislation, will do the one thing that is required responsibly in this piece of legislation, and that is to veto it.

I will predict very optimistically that, if he sees fit to veto it, we will sustain this veto in the Halls of Congress.

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

Mr. LAXALT. I will certainly yield.

Mr. CURTIS. Mr. President, while I have very strong feelings against this legislation, I do concede that the proponents of the legislation have a case on paper. Theoretically, they contend this ought to be. I do not agree with them. But I am sure that their position was made in good faith.

One thing this debate has done is to clarify the situation. There has been wide discussion in the newspapers about it. The practical effect of this bill will be very bad. It will increase the power to shut down a job completely.

Who can stand that? The giant contractors over the country. Who cannot stand it? Who cannot even get started at all because they cannot get their financing or performance bonds? Small contractors. Who among the small and newer contractors will have the toughest time? The minorities.

This is a proposal, the practical effect of which will be to take out of the construction business to a considerable extent minority contractors and other small contractors.

It will also result in damages to our entire economy. Have any Senators had any experience on how long it takes to build a powerplant? I daresay every State in the Union is in need or in the process of building coal or nuclear powerplants. It takes forever. They meet all the requirements, the overregulations, that all businesses must contend with, and the clearances.

Now we add to that the proposition that one subcontractor's labor dispute becomes a dispute of all.

They are not going to have to hire young contractors to get the job done during their lifetime but someone who has a son coming up who can take over. It drags on now most to their detriment.

Mr. President, it is my hope that those who originally sponsored this legislation in good faith, in the light of the facts

drawn out, for the sake of minority contractors and small contractors, and of the general public, who is suffering from inordinate delays now in construction, will change their position on this legislation.

I hope that the President will not only take into account the fact that 45 Senators think this is bad law, but also will take into account all of these facts which this extensive debate, comment in public places, and discussion on the part of many editorial writers, and other newspapermen, has disclosed. I am sure that if he does that he cannot put his stamp of approval on this legislation.

I yield the floor, and I thank the Senator.

Mr. HELMS. I thank the Senator from Nebraska and the Senator from Nevada.

Mr. THURMOND. Mr. President, will the Senator yield me 3 or 4 minutes?

Mr HELMS. I yield 5 minutes to the distinguished Senator from South Carolina and then 5 minutes to the distinguished Senator from Illinois.

Mr. THURMOND. Mr. President, much was said about this legislation when it was first before the Senate. I do not intend to rehash all those arguments and counterarguments here today. I do, however, wish to draw the attention of my colleagues to the person who will be most affected by this legislation if it should become law. That person is the construction worker.

Mr. President, if common situs picketing is legalized, construction union members in this Nation are going to be faced with the difficult decision of whether or not to cross a picket line which results from an isolated dispute in which they have no part. If a union member crosses a picket line, he runs the risk of being fired or expelled from the union. These are serious consequences. If the union member elects not to cross a picket line, he will not work that day and, as a result, will receive no wages. This is a serious blow to the economic stability of the worker and his family.

Mr. President, an additional economic factor which must be considered is the likelihood of further unemployment in the construction industry. The level of unemployment in construction is unacceptably high. As construction becomes more expensive and more bothersome, due to increased strikes, the number of construction projects will be reduced. This will add to the depressed state of the construction industry and contribute to further depression of the national economy. If there are no construction jobs, it will be of no benefit to construction workers, whether they belong to a union or not.

Mr. President, I urge the Senate to take a close look at the problems this legislation creates for the individual worker. I hope this conference report will not be agreed to. If it is agreed to, I hope President Ford will veto the bill, and not make this winter a colder one for members of the construction trades.

Mr. President, in my judgment, no good can come from this bill. In my opinion, it is a bill that will destroy freedom.

If a man wants to join a union, I have always favored his having that right. If he does not want to join a union, I do not think he should be forced to do so. I believe that the first civil right of all is the right for a man to make a living for himself and his family, and to do that I do not think he should have to join any organization—any religious organization, any economic organization, any political organization, any union organization, or any other organization. After all, this is a free America. But when we require people to join a union to hold jobs, we are destroying some of that freedom.

As I have said here before, Mr. President, under this bill, the employees of 1 contractor—say, 12 in number—can strike against their subcontractor, throw up a picket line, and close down a job on which perhaps 2,000 or 3,000 people are working. This even can apply on a defense installation or on a Government building. It can apply anywhere. Are the people of America going to favor this? I cannot believe that public opinion in this country will warrant an approval of such actions as Congress will take if this conference report is agreed to.

Mr. President, it is my sincere hope that, at the last moment, in view of all the debate and all the facts that have been brought out here—the new information that has been brought to the Senate on this question, because the House passed it hastily and several members there have changed their position when they found out more about it—the Senate, upon careful reflection, will see fit now to defeat this conference report, so that the bill will go no further.

Mr. LAXALT. I thank the Senator from South Carolina.

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

The PRESIDING OFFICER. The Senator has 5 minutes, which have been allotted to the Senator from Illinois.

Mr. LAXALT. I yield the remaining time to the Senator from Illinois.

Mr. PERCY. Mr. President, I express my deep appreciation to Senator LAXALT and Senator HELMS for yielding their remaining 5 minutes to someone who voted for this bill. It is typically gracious and thoughtful of them. I think we share some of the same concerns.

There is no question that those on this side of the aisle do not have to be tested on the fact that we are for organized labor. I recall that in 1959, the Committee on Program and Progress that President Eisenhower asked me to Chair, came out with a very strong and unanimous Republican position that organized labor has been helpful and responsible for a great deal of the economic progress made by the workingmen and workingwomen of this Nation. The report stated:

> The Republican Party seeks a better life for the working men and women of America. Labor unions have contributed importantly to this better life, and to the vigor of the American system. They are an essential institution in the fabric of American life both today and tomorrow.

Certainly, the rest of the world has learned a great deal from the United States about the collective bargaining process and the rights of workers. But I sometimes think that some elements of organized labor are their own worst enemy.

I stopped and talked to the pickets at United Airlines just the other day—the mechanics who have shut down our Nations largest airline just before the holiday season. I said, "If I were you fellows, looking for good will, I would take off those signs. You are disrupting the travel schedules of literally hundreds of thousands of Americans, leaving students stranded at universities, unable to get home to their parents; vacation and family plans disrupted all over this Nation, at a time when 8 million people are out of work.

Garbage left piled up on the streets of New York at a time when employees are being laid off and the city is on the verge of bankruptcy. I am not sure what all the issues were in this strike, but it seems that their sense of knowing what is right and in the public interest versus the tendency toward excesses, is sometimes overwhelming.

I must say that in the building industry, this has been true to a degree. We have probably the most efficient and effective building industry in the world, but we also have abuses and excesses in it, such as featherbedding practices.

In Washingon, I have seen the head of a major building trades union—say before his own national convention that labor is pricing itself out of the market in the building field.

Houses are becoming too expensive for even middle income families to afford. Factories are becoming so expensive to construct that companies are moving abroad, rather than building here at home.

Taking into account this type of abuse of power, it was with a deep concern, that I faced the situs picketing question. I finally voted for this right, but I did so after much deliberation, including a lengthy discussion with Secretary Dunlop one morning in his office at 7:45 a.m. As a result of our discussion I became convinced that the package that had been put together would help stabilize the building trades industry as well as building costs. He worked this package out, he said, with leading contractors who worked for months with him in regular meetings with leaders of organized labor to try to build a fabric of balanced legislation.

It was on the basis of that effort that I voted for this bill despite the fact that even the labor movement is not united on this issue. Other labor unions, other than those in the building industries, are very much opposed to it, because they think they are going to be priced out of the market if the building costs spiral and irresponsible strikes are called.

As we approach this vote on the conference report, I have carefully reread the President's latest statement on this issue, furnished to us by Senator TAFT, which I ask unanimous consent to have printed in the RECORD at this point.

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

SITUS PICKETING LEGISLATION

Q. Mr. President one of the job bills or one of the bills that the construction industry here in the State of Wisconsin is vitally

interested in Senate bill 1479, which many of the contractors seem to feel would provide for an illegal secondary boycott. There have been some direct appeals, I know, to your office on 1479. Have you reviewed the bill? Have you, made any kind of decision as to whether you will veto that bill or let it go by?

The PRESIDENT. About 3 months ago, Secretary of Labor Dunlop appeared before the House and Senate Committees on Education and Welfare, and he testified that if the original so-called situs picketing bill were modified with three amendments—at least two amendments—it would be acceptable.

One of those amendments would provide that before you could have on-site picketing, it would require a 10-day cooling off period.

The second provision that would be mandatory as a part of the bill would be that no local could go on strike under those conditions without having gotten prior approval from the international.

Now, in my opinion, those two added amendments would make the bill acceptable, plus one other factor: There is also a bill that the Secretary of Labor is working on, with both management and labor, which in effect provides that there shall be greater responsibility for both labor and management on strikes and lockouts.

If that second bill comes to the White House with the original bill, plus those two amendments, then I think we have put together, working with management and labor and the Congress, an acceptable solution to this longstanding conflict.

Mr. PERCY. The President made this statement in Milwaukee on August 25, 1975, describing the balanced picture that he wanted in this package.

I wish to read a letter that I recently wrote to Secretary Dunlop.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. JAVITS. Mr. President, I demand the yeas and nays on the conference report.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PERCY. I ask unanimous consent to have printed in the RECORD at this point a letter I wrote on September 8 to Secretary Dunlop and a reply that I have received from him this morning, in which the Secretary pledges that, if this measure becomes law, he will monitor it to see that it does not fulfill the concerns and fears that some of us may have.

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

U.S. SENATE,
Washington, D.C., December 8, 1975.

Hon. JOHN T. DUNLOP,
Secretary of Labor,
Department of Labor Building,
Washington, D.C.

DEAR JOHN: As I am sure you realize, my vote in support of the common situs picketing legislation was in large part the result of our discussion about it. In particular, I share your anticipation that the "Dunlop bill" which was added as a Senate floor amendment will bring greater stability to the industry.

I would like to propose that the Department of Labor make a special effort to monitor and report on this legislation once it is enacted. Many businessmen are predicting a rash of strikes and spiraling labor costs, and are not convinced that the bill and companion legislation will be effective. Hopefully, six to eight months of monitoring will prove your contention correct, that the provision added to the original concept, with the support of representatives of the construction industry, namely, ten days advance notice and approval by an international or national organization prior to a strike and the Construction Industry Bargaining Committee process itself will actually stabilize labor-management relations in the industry and thus actually reduce spiraling costs in the construction field. Spiraling construction costs have caused a reduction in building and job opportunities and have been self-defeating. Construction industry unions must consider this in their contract negotiations.

If this does not result, then I predict the legislation will be, and should be, repealed.

Sincerely,

CHARLES H. PERCY.

U.S. DEPARTMENT OF LABOR,
Washington, December 15, 1975.

Hon. CHARLES S. PERCY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PERCY: Thank you for your recent letter regarding HR 5900, Economic Rights of Labor in the Construction Industry, and for your support of this important legislation.

It is, as you know, my considered judgment that the legislation in its present form represents the best practical combination of actions in the overall best interest of the industry and the public. It is also my intent to monitor closely the implementation of the legislation when it is enacted. Indeed, I believe the Collective Bargaining Committee can play a major constructive role in this regard with labor and management working together directly.

The bill does provide for sufficient staff to monitor the progress and direction of the legislation. The gradual phase-in of the situs legislation over more than two years, wisely adopted by the Congress, provides an opportunity for constructive developments.

I do not believe that the passage of the legislation will increase strife or wage inflation. Indeed, I and others in the Administration responsible for dispute settlement, have the judgment that there will be much less strife and more responsible bargaining in this industry. In any event, I am always ready to reassess developments after a reasonable period.

Thank you again.

Sincerely,

JOHN T. DUNLOP.

Mr. BARTLETT. Mr. President, the conference report on H.R. 5900, the common situs picketing bill, represents special interest legislation at its worst.

It has never been established that this legislation is necessary to grant construction unions collective bargaining equality with other unions.

It has been established that this legislation would confer upon construction unions grave new powers; the power to shut down entire construction projects over an isolated dispute between one employer and his employees, the power to deny a worker's right to decide for himself if he is to be represented by a union, and the power to cripple the construction industry through more strikes, longer strikes, and unfair contract demands. In granting these new powers, the Congress would be promising higher costs and increased unemployment in the Nation's largest industry, and would be dealing a serious blow to the Nation's hopes for economic recovery.

I call on my colleagues to take this final opportunity to place the interests of the National above the interests of construction unions, to vote against the conference report on H.R. 5900.

Mr. DOLE. Mr. President, I must cast my vote in opposition to the conference report on the so-called common situs picketing bill, H.R. 5900.

The junior Senator from Kansas must oppose this legislation not because he is opposed to fair treatment of working people. On the contrary, it is my feeling that we should support the reasonable demands of the working people in the construction industry.

However, the clear message I have been receiving from literally thousands of my constituents who have written and called my office regarding this measure during the past several weeks is that this bill goes much beyond fair and reasonable demands.

My primary objection to this legislation is that—viewed in the context of practical labor-management negotiations—it will serve to alter the existing power "balance" between contractors and the building trade unions. With the type of wage settlements commanded by construction workers over the past several years, however, I hardly think we need to tilt the scales of collective bargaining in their favor.

For Department of Labor Statistics show that in cities with populations over 100,000, the average wage for union construction workers is already $4.10 an hour higher than their industrial counterparts—irrespective of any health, welfare, pension, or vacation benefits otherwise paid by the employer.

Although the sponsors of H.R. 5900 have attempted to portray the measure as effecting "equal" treatment of craft and industrial union members, there is an important distinction to be made between their respective employment situations. At a manufacturing site, that is, common picketing is directed against a single management entity which has the ability to negotiate a settlement. At a construction site, on the other hand, pressure could be applied against separate contractors who can do nothing about resolving the dispute.

For this reason, I have opposed the passage of H.R. 5900 throughout its consideration before the Senate.

I opposed the motions to invoke cloture on debate on this bill.

I opposed this legislation on its initial passage in the Senate.

I have written the President, urging him to veto this bill if passed by Congress. Although no final commitment has been announced one way or the other by the White House at this time, I have every reason to believe the ultimate decision will be in accordance with the clear demands of the American people.

I say to my colleagues that a vote against this bill is not a vote against the reasonable needs and demands of workers in the construction industry, for the working people in the construction industry will still be able to bargain collectively for improved working conditions, just as do workers in any other private industry.

Mr. President, I cast my vote in opposition to final passage of this common situs picketing conference report and

urge every Senator who supports a labor-management relationship based on equity to do likewise—to demonstrate to the President that a veto, as difficult and courageous as it may be, will be decisively sustained.

DEPARTMENT OF DEFENSE APPROPRIATIONS, FISCAL YEAR 1976—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to consider the conference report on H.R. 9861, which the clerk will state.

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. 9861) making appropriations for the Department of Defense for the fiscal year ending June 30, 1976, and the period beginning July 1, 1976, and ending September 30, 1976, 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 Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the RECORD of December 10, 1975, at page 39786).

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the requirement that the conference report be printed as a Senate report be waived, inasmuch as under the rules of the House of Representatives, it has been printed as a report of the House.

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

Mr. McCLELLAN. Mr. President, on Monday, December 8, the conferees on the Department of Defense appropriations bill for fiscal year 1976 and the 3-month transition period reached agreement on the differences between the two Houses after 3 days of meetings and about 10 hours of deliberations.

The total amount of new budget authority agreed to was $90,466,961,000 for fiscal year 1976 and $21,860,723,000 for the 3-month transition period ending September 30, 1976.

For fiscal year 1976, this is $7,390,888,000, or 7.6 percent below the administration's amended budget request. For the transition period, it is $1,256,922,000, or 5.4 percent less than the budget request.

The final amount agreed to by the conferees for fiscal year 1976 is $247,916,000 above the House bill, and $254,828,000 below the Senate bill—or very close to an even split between the two Houses.

The conferees resolved 437 individual line-item dollars or language differences, including 101 amendments made by the Senate to the House bill.

I am convinced that the conference committee has produced a reasonable compromise and that the amount appropriated in this bill provides a level of funding commensurate with both American national responsibilities and, hopefully, prudent fiscal policy.

Although reductions amounting to over $7 billion—or 7.6 percent of a defense budget request—must involve sizeable cutbacks in many areas, the conferees attempted to make reductions that will not be detrimental to our national security interests. I would like to emphasize that, even with this large reduction, this bill is $8,370,664,000—or 10.2 percent—more than the comparable amount provided last year in the Defense Appropriations Act for fiscal year 1975.

COMPLIANCE WITH CONGRESSIONAL BUDGET RESOLUTION (H. CON. RES 466)

Mr. President, the Committee on Appropriations has made every effort this year to work within the framework of the new Budget and Impoundment Act, which is on a trial run basis this year. When this Chamber considered H.R. 9861, you will recall that I pointed out that the bill as reported by the committee was in compliance with the Senate version of the second concurrent resolution on the budget, with respect to both budget authority and outlays.

H.R. 9861, as agreed to by the conferees, is within the targets established for the national defense function in the second concurrent resolution (H. Con. Res. 466) that was reported by the conference committee on December 8, if reasonable assumptions are made about bills not yet acted upon that affect this resolution—such as the pay supplemental, which will be submitted in January.

The conference total is $89 million below the budget authority target and $202 million below the outlay target.

MAJOR ITEMS IN THE CONFERENCE

TITLE I—MILITARY PERSONNEL

The conference agreement includes restoration of $10.3 million of the House $29.6 million reduction for pay of military personnel assigned to recruiting activities. The conferees also agreed to a decrease of $2.3 million associated with the Senate proposal to reduce drill training status for certain Reserve personnel. Also agreed to was restoration of $10 million to support a Naval Reserve average strength of 102,000, rather than the 94,000 recommended by the Senate and 106,000 proposed by the House. The conferees also agreed with the Senate proposal to terminate, until reviewed and approved by the Congress, future drill payments to non-prior-service Reserve enlistees who have not yet undergone basic military training.

TITLE III—OPERATION AND MAINTENANCE

The conferees agreed to provide funds for the civilian personnel strength levels in the Authorization Act for the period ending September 30, 1976. This requires that a reduction of 23,537 personnel be made from the budget request. The conference agreement specifies reductions of 20,334, and permits the Secretary of Defense to allocate the remaining reduction of 3,203 positions. Principal conference restorations of House civilian personnel reductions occurred in Army depots, naval aircraft rework facilities, and naval shipyards.

The conference agreement provides $174,950,000 for the stock fund surcharges, or approximately half of the amount provided in the Senate bill. The House provided no funds for this item. These funds are required to pay for costs already incurred, even though the conference agreement stipulates that the surcharge is to be removed.

The conferees agreed that the subsidy for commissary personnel operations should not be phased out at this time, as was proposed by the Senate.

With respect to Safeguard, the conference agreement provides the full amount of the budget request, as proposed by the Senate, but stipulates that the funds provided may be used only for the purpose of the expeditious termination and deactivation of all operations of the antiballistic missile facility, except the perimeter acquisition radar.

TITLE IV—PROCUREMENT

AIRCRAFT PROGRAMS

The conference agreement includes $64 million for advance procurement for the B–1 strategic bomber as proposed by the House. The Senate had deleted these funds. The conference report makes clear that provision of these funds implies no commitment on the part of the Congress to the production of the B–1, and limits obligations of funds for the B–1 under a continuing resolution in 1977 to a rate not more than the amount provided in fiscal year 1976.

The conference provided $251.2 million to fully fund four airborne warning and control system—AWACS—aircraft, instead of two AWACS as proposed by the House and six AWACS as provided by the Senate.

The conference also provided $1,373,300,000 for procurement of 108 F/TF–15 fighter aircraft as proposed instead of $1,316,200,000 for production of 96 such aircraft as proposed by the Senate.

MISSILE PROGRAMS

The conference agreement provides $37.5 million for procurement of 52 Chaparral missile launchers as proposed by the Senate. The House had denied the funds requested for these launchers. The conference agreement also provides $102.8 million for the Trident I missile instead of the $95.3 million as proposed by the House and the $120.3 million proposed by the Senate. The conference agreement provides $85.6 million for procurement of 205 Condor missiles, the same amount provided by both Houses. However, the bill contains a proviso, similar to that contained in a Senate amendment, which limits funding for Condor to $15 million until the Secretary of Defense determines and advises the Congress that the Condor missile system has successfully completed testing and can be released for production.

SHIPBUILDING

A total of $3,853,000,000 is provided in the conference agreement for the 1976 shipbuilding program as proposed by the Senate, instead of $3,832,700,000 as proposed by the House. The conferees agreed to the Senate's proposals in all cases. This involved making necessary adjustments in order to fully fund the most important ships in the program by making provision for known cost growth that was determined subsequent to the date the House reported the bill. An additional $38.7 million provided in the conference agreement as proposed by

the Senate, will fund Trident cost growth, making the total amount $641.3 million instead of $602.6 million as proposed by the House. Only one AD destroyer tender is funded at $201.9 million, instead of $364.5 million for two tenders as proposed by the House. A total of $239.4 million is provided for two AO fleet oilers, as proposed by the Senate, which is $27.3 million more than the House proposed, in order to fund known cost increases in these ships.

105MM AMMUNITION PLANTS

The conference agreement provides $21.7 million in fiscal year 1976 and $88.7 million in the transition quarter, for construction of a 105mm artillery projectile metal parts plant at the Lone Star Army Ammunition Plant in Texarkana, Tex., as proposed by the Senate. The House had denied these funds. The conference agreement, however, provides bill language that requires a new Army study of the requirements for this plant, a certification of the essentiality of these requirements, and approval of the Army decision by the Armed Services and Appropriations Committees prior to obligation of any funds provided in this act for this purpose.

TITLE V—RESEARCH, DEVELOPMENT, TEST AND EVALUATION

AIRCRAFT PROGRAMS

The conference agreement provides $597.2 million for the B–1 bomber as proposed by the Senate instead of $642 million as proposed by the House. The conference agreement provides $216 million for the F–16 air combat fighter instead of $221 million as proposed by the House and $146 million as proposed by the Senate.

MISSILE PROGRAMS

The conferees agreed to provide $3.8 million for the advanced forward area air defense system as proposed by the House instead of $9.9 million as proposed by the Senate. A total of $4 million is provided in the conference agreement for the heliborne missile, Hellfire, instead of $3 million proposed by the House and $4.5 million proposed by the Senate. The conferees provided $55 million for the short range air defense missile system instead of $45 million proposed by the House and $65 million proposed by the Senate.

During the transition quarter, the conference agreement provides $40 million for the SAM–D missile system as proposed by the Senate, instead of $25.4 million as proposed by the House.

The conference agreement approves the continuation of the Trident Maneuvering Reentry Vehicle program, providing $725.5 million for the Trident missile system as proposed by the Senate instead of $686.9 million as proposed by the House.

The conferees also agreed on the appropriation of $51 million as proposed by the Senate to continue the Air Launched Cruise Missile program. The House had denied these funds.

OTHER MAJOR DEVELOPMENT PROGRAMS

The conference agreement provides $51.8 million for the XM–1 tank program as proposed by the Senate instead of $43.8 million as proposed by the House. The conferees also agreed to provide $15 million for the Closein Weapon system as proposed by the Senate. The House had denied all funds for this system. The conferees also agreed to provide $38 million for the Surface Effects Ship program as proposed by the Senate instead of $20.1 million as proposed by the House.

GENERAL PROVISIONS

The conference reached agreement on a number of differences in the general provisions, providing as follows on the major items:

Deleted a Senate provision which would have permitted the payment of a price differential on contracts made for the purpose of relieving economic dislocations;

Limited the Department to 396 enlisted aides as proposed by the House instead of 250 as proposed by the Senate;

Permitted payment of a monetary allowance to military personnel who move their own baggage and household effects. This provision was proposed by the House and stricken by the Senate;

Provided a 40-mile radius, instead of a 50-mile radius proposed by the House and a 30-mile radius proposed by the Senate for the issuance of certificates of nonavailability under the Civilian Health and Medical Program of the Uniformed Services—CHAMPUS; and

Permitted payments under the CHAMPUS program to be made to family, pastoral and family and child counselors when these services cannot be obtained at a military medical facility or on a military base. The House had prohibited all payments, while the Senate had permitted them.

The details of the calculations and assumptions made by the Committee on Appropriations are shown on the two tables which I shall include at the conclusion of my remarks. Mr. President, I ask unanimous consent that a list of major items in conference and a tabulation summarizing the actions of the House, the Senate and the conference, and the other tables just mentioned, be printed in the RECORD at this point.

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

BUDGET AUTHORITY WORKSHEET, NATIONAL DEFENSE FUNCTIONAL CATEGORY (050) FISCAL YEAR 1976

[In millions of dollars]

	Actions/ estimates	President's requests including amendments
Enacted:		
Previous years:		
Trust funds	6,807	6,807
Offsetting receipts	−5,139	−5,139
This session:		
Treasury—Postal service	100	121
HUD—Independent	38	48
State—Justice	5	5
Military retired pay adjustment	9	0
Military construction	3,585	4,109
Public works—ERDA	1,918	1,969
Total already enacted	7,323	7,920
Pending or not yet submitted legislation, and additional information useful in determining estimates:		
Pay raises:		
Provided by law	3,079	
Less President's proposals		−1,847
Less re-estimate	−134	
Less congressional action on pay caps	−932	
Pay raise subtotal	2,013	[1] 1,800
Foreign assistance:		
Middle East		933
All other		[2] 334
Naval petroleum reserve and offsetting receipts (estimate)	122 −100	[3] 0
	22	
Stockpile sales (estimate)	−244	[3] 0
Inventory replenishment (authorization denied)	0	0
Other		[4] 54
Total pending (excluding DOD appropriations)		3,121
Total enacted and pending (excluding DOD appropriations)		10,444
H.Con.Res. 466—2d Concurrent Resolution National Defense (505) Target		101,000
Minus above total, enacted and pending		−10,444
Residual available for defense appropriations bill within target		90,556
H.R. 9861 as reported by the conference committee		90,467
Under target		89

[1] Assumes 10 percent absorption and cut in final appropriations (including retired pay). See exhibit A.

[2] Assumes 40 percent cut in final appropriation excluding Middle East, the same percentage cut as in 3 previous fiscal years. See exhbit B.

[3] Assumes no legislation passes this fiscal year.

[4] Military per diem (+$44,000,000) and reimbursement for accrued leave (+$10,000,000); both bills passed by House. Senate Armed Services Committee advises that Senate action is likely. Assumes effective date of Jan. 1, 1976, for per diem legislation and Apr. 1, 1976, for accrued leave legislation.

[5] Memo: President's defense appropriations bill included $97,695 in new budget authority.

OUTLAYS WORKSHEET, NATIONAL DEFENSE FUNCTIONAL CATEGORY (050) FISCAL YEAR 1976

[In millions of dollars]

	Action/ estimates	President's requests including amendments
Enacted:		
Previous years:		
Trust funds	4,676	4,676
Prior years	[1] 23,952	[15] 23,952
Offsetting receipts	−5,139	−5,139
This session:		
Treasury—Postal Service	62	81
HUD—Independent	31	39
State—Justice	5	5
Military retired pay adjustment	9	0
1975 foreign assistance	−159	(2)
Rescissions	−63	(2)
1975 pay supplemental	83	85
Military construction	827	836
Public Works—ERDA	858	880
Total already enacted	25,142	25,145
Pending or not yet submitted legislation, and additional information useful in determining estimates:		
Pay raises:		
Provided by law	3,002	
Less President's proposals		−1,808
Less reestimate	−134	
Less Congressional action on pay caps	−917	
Pay raise subtotal	1,951	[3] 1,750

OUTLAYS WORKSHEET, NATIONAL DEFENSE FUNCTIONAL CATEGORY (050) FISCAL YEAR 1976—Continued

[In millions of dollars]

	Action estimates	President's requests including amendments
Foreign assistance		638
Middle East	170	(170)
All other	[4] 281	(468)
Naval petroleum reserve and Offsetting receipts (estimate)	35 −100	[5] 0 −400
Total	−65	
Stockpile sales (estimate)	−244	[5] 0 −408
Inventory replenishment authorization denied)	0	0 90
Other		[6] 49 138
Total pending (excluding DOD appropriations)	2,250	1,252
Total enacted and pending (excluding DOD appropriations)	27,392	26,667

	Action/estimates	President's requests including amendments
H. Con. Res. 466—2d Concurrent Resolution National Defense (050) Target	91,000	(7)
Minus above total, enacted and pending	−27,392	(7)
Residual available for defense appropriations bill within target	64,508	(7)
H.R. 9861 as reported by the conference committee	64,306	(7)
Under target	202	(7)

[1] Incorporates President's re-estimate for prior year outlays (−$500,000,000).
[2] Carried in previously enacted.
[3] Assumes 10 percent absorption and cut in final appropriation (including retired pay). See exhibit A.
[4] Assumes 40 percent cut in final appropriation excluding Middle East, the same percentage cut as in three previous fiscal years. See exhibit B.
[5] Assumes no legislation passes this fiscal year.
[6] Military per diem (+$40,000,000) and reimbursement for accrued leave (+$9,000,000); both bills passed by House. Senate Armed Services Committee advises that Senate action is likely. Assumes effective date of Jan. 1, 1976 for per diem legislation and Apr. 1, 1976 for accrued leave legislation.
[7] Memo: President's defense appropriations bill included $67,233 in outlays from current BA.

EXHIBIT A

DOD SUPPLEMENTALS FOR PAY

[Dollar amounts in millions]

	Supplemental request for pay [1]	Enacted	Percent reduction
Fiscal year:			
1975	$1,772	$1,491	15.86
1974	3,260	3,014	7.54
1973	1,074	930	13.40
1972	2,639	2,339	11.37
1971	2,838	2,685	5.39
Average reduction			10.71

[1] Includes retired pay.

EXHIBIT B

CONGRESSIONAL REDUCTIONS IN MILITARY ASSISTANCE AND FOREIGN MILITARY CREDIT SALES PROVIDED THROUGH THE APPROPRIATIONS PROCESS

[Dollar amounts in millions]

Fiscal year		Total President's request including supplementals and amendments	Total final appropriation	Percent reduction from President's request
1971	Military assistance, Executive	690.0	690.0	
	Foreign military sales credits	272.5	200.0	27
	Total	962.5	890.0	8
1972	Military assistance, Executive	705.6	500.6	29
	Foreign military sales credits	510.0	400.0	22
	Total	1,215.6	900.6	26
1973	Military assistance, Executive	780.5	550.9	29
	Foreign military sales credits	527.0	400.0	24
	Total	1,307.5	950.9	27
1974	Military assistance, Executive	685.0	450.0	34
	Foreign military sales credits	525.0	325.0	38
	Total	1,210.0	775.0	36
1975	Military assistance, Executive	1,207.0	475.0	61
	Foreign military sales credits	555.0	300.0	46
	Total	1,762.0	775.0	56
	Average reduction 1971 through 1975			31
	Average reduction 1973 through 1975			40

Note: Above numbers exclude aid for Israel and Cambodia, which are as follows:

1971	Military credit sales, Israel	500.0	500.0	
1972				
1973				
1974	Emergency security assistance, Israel	2,200.0	2,200.0	
	Emergency military assistance, Cambodia	200.0	150.0	25
1975				

DEPARTMENT OF DEFENSE APPROPRIATIONS, 1976 (H.R. 9861)

Conference agreement	New BA enacted fiscal year 75	New BA estimates 76/Transition	New BA House 76/Transition	New BA Senate 76/Transition	New BA conference 76/Transition	Conference compared with fiscal year 75 enacted	Conference compared with new BA estimate	Conference compared with House bill	Conference compared with Senate bill
TITLE I—MILITARY PERSONNEL									
Military personnel, Army	8,072,021,000	8,264,400,000	8,162,738,000	8,185,666,000	8,188,347,000	108,326,000	−84,053,000	17,609,000	−5,319,000
Transition period	304,715,000	2,100,000,000	2,062,994,000	2,064,644,000	2,064,635,000		−35,365,000	1,641,000	−9,000
Transfer from other accounts	(10,100,000)					(−10,100,000)			
Military personnel, Navy	5,835,560,000	5,784,900,000	5,721,114,000	5,722,484,000	5,722,300,000	−113,260,000	−62,600,000	1,186,000	−184,000
Transition period	168,170,000	1,476,900,000	1,451,568,000	1,451,878,000	1,451,668,000		−25,232,000	100,000	−210,000
Transfer from other accounts	(10,100,000)					(−10,100,000)			
Military personnel, Navy 1969, 1971 (liquidation of deficiencies)	43,356,000					−43,356,000			
Military personnel, Marine Corps	1,757,256,000	1,828,300,000	1,802,843,000	1,810,335,000	1,806,377,000	49,121,000	−21,923,000	3,534,000	−3,958,000
Transition period	66,844,000	467,900,000	459,863,000	460,190,000	460,117,000		−7,783,000	254,000	−73,000
Transfer from other accounts	(3,200,000)					(−3,200,000)			
Military personnel, Air Force	7,441,031,000	7,400,600,000	7,262,661,000	7,244,884,000	7,251,524,000	−189,507,000	−149,076,000	−11,137,000	6,640,000
Transition period	270,425,000	1,816,300,000	1,777,928,000	1,764,481,000	1,776,677,000		−39,623,000	−1,251,000	12,196,000
Transfer from other accounts	(55,500,000)					(−55,500,000)			
Reserve personnel, Army	493,800,000	464,600,000	468,700,000	469,357,000	468,879,000	−24,921,000	4,279,000	179,000	−478,000
Transition period		168,900,000	168,120,000	164,527,000	165,299,000		−3,601,000	−2,821,000	772,000
Reserve personnel, Navy	215,400,000	191,000,000	204,390,000	189,450,000	200,035,000	−15,365,000	9,035,000	−4,355,000	10,585,000
Transition period	7,378,000	56,300,000	61,935,000	54,715,000	59,525,000		3,225,000	−2,410,000	4,810,000
Reserve personnel, Marine Corps	66,800,000	72,700,000	69,320,000	71,983,000	70,652,000	3,852,000	−2,048,000	1,332,000	−1,331,000
Transition period		28,900,000	27,850,000	28,313,000	28,082,000		−818,000	232,000	−231,000
Reserve personnel, Air Force	147,865,000	160,700,000	157,500,000	152,700,000	157,500,000	9,635,000	−3,200,000		4,800,000
Transition period		51,100,000	48,260,000	47,160,000	48,260,000		−2,840,000		1,100,000
National Guard personnel, Army	660,800,000	697,300,000	696,900,000	696,900,000	696,900,000	36,100,000	−400,000		
Transition period	9,700,000	225,300,000	209,050,000	209,050,000	209,050,000		−16,250,000		
National Guard personnel, Air Force	205,227,000	213,200,000	211,318,000	212,318,000	212,318,000	7,091,000	−882,000	1,000,000	
Transition period	2,213,000	61,100,000	60,924,000	60,924,000	60,924,000		−176,000		
Total title I	24,939,116,000	25,077,700,000	24,757,484,000	24,756,677,000	24,766,832,000	−172,284,000	−310,868,000	9,348,000	10,755,000
Transition period	829,440,000	6,452,700,000	6,328,492,000	6,305,882,000	6,324,237,000		−128,463,000	−4,255,000	18,355,000
Total, transfer from other accounts	(78,900,000)					(−78,900,000)			

Conference agreement	New BA enacted fiscal year 75	New BA estimates 76/Transition	New BA House 76/Transition	New BA Senate 76/Transition	New BA conference 76 Transition	Conference compared with fiscal year 75 enacted	Conference compared with new BA estimate	Conference compared with House bill	Conference compared with Senate bill
TITLE II—RETIRED MILITARY PERSONNEL									
Retired pay, Defense	6,250,900,000	6,885,200,000	6,885,200,000	6,885,200,000	6,885,200,000	634,300,000			
Transition period	235,300,000	1,775,100,000	1,775,100,000	1,775,100,000	1,775,000,100				
TITLE III—OPERATION AND MAINTENANCE									
Operation and maintenance, Army	6,350,167,000	7,352,000,000	6,984,830,000	7,052,000,000	7,052,000,000	701,833,000	−300,000,000	67,170,000	
Transition period	275,539,000	1,883,700,000	1,752,542,000	1,781,442,000	1,779,000,000		−104,700,000	26,458,000	−2,442,000
Transfer from other accounts	(23,221,000)					(−23,221,000)			
Operation and maintenance, Army, 1972 (liquidation of contract authority)		42,214,000					−42,214,000		
Army stock fund		94,000,000	94,000,000		20,000,000	20,000,000	−74,000,000	−74,000,000	20,000,000
Operation and maintenance, Navy	7,290,525,000	8,320,000,000	7,974,615,000	8,108,615,000	8,069,400,000	778,875,000	−250,600,000	94,785,000	−39,215,000
Transition period	161,800,000	2,234,500,000	2,121,157,000	2,133,557,000	2,133,557,000		−100,943,000	12,400,000	
Transfer from other accounts	(6,700,000)					(−6,700,000)			
Operation and maintenance, Navy, 1972 (liquidation of contract authority)		54,000,000					−54,000,000		
Navy stock fund		42,000,000	42,000,000		10,000,000	10,000,000	−32,000,000	−32,000,000	10,000,000
Operation and mcintenance, Marine Corps	459,384,000	507,300,000	492,910,000	499,210,000	497,110,000	37,726,000	−10,190,000	4,200,000	−2,100,000
Transition period	15,200,000	129,400,000	125,506,000	125,856,000	125,506,000		−3,894,000		−350,000
Transfer from other accounts	(1,600,000)					(−1,600,000)			
Marine Corps stock fund		8,700,000	8,700,000		2,000,000	2,000,000	−6,700,000	−6,700,000	2,000,000
Operation and maintenance, Air Force	7,141,450,000	7,956,300,000	7,437,079,000	7,586,479,000	7,498,679,000	357,229,000	−457,621,000	61,600,000	−87,800,000
Transition period	127,200,000	2,020,300,000	1,906,245,000	1,897,495,000	1,897,495,000		−122,805,000	−8,750,000	
Transfer from other accounts	(24,780,000)					(−24,780,000)			
Operation and maintenance, Air Force, 1972 (liquidation of contract authority)		67,000,000					−67,000,000		
Air Force stock fund		82,100,000	82,100,000		15,000,000	15,000,000	−67,100,000	−67,100,000	15,000,000
Operation and maintenance, Defense agencies	2,400,097,000	2,569,800,000	2,460,631,000	2,497,876,000	2,475,431,000	75,334,000	−94,369,000	14,800,000	−22,445,000
Transition period	50,888,000	653,600,000	623,925,000	631,855,000	627,725,000		−25,875,000	3,800,000	−4,130,000
Defense stock fund		250,000,000	250,000,000	88,000,000	88,000,000	88,000,000	−162,000,000	−162,000,000	
Operation and maintenance, Army Reserve	283,993,000	332,300,300	305,760,000	311,460,000	310,710,000	26,717,000	−21,590,000	4,950,000	−750,000
Transition period	9,408,000	98,200,000	91,400,000	91,100,000	91,100,000		−7,100,000	−300,000	
Operation and maintenance, Navy Reserve	246,738,000	308,600,000	281,525,000	288,125,000	284,425,000	37,687,000	−24,175,000	2,900,000	−3,700,000
Transition period	2,088,000	80,700,000	73,550,000	73,250,000	73,250,000		−7,450,000	−300,000	
Operation and maintenance, Marine Corps Reserve	11,728,000	12,100,000	11,900,000	12,000,000	12,000,000	272,000	−100,000	100,000	
Transition period	28,000	3,500,000	3,400,000	3,400,000	3,400,000		−100,000		
Operation and maintenance, Air Force Reserve	293,680,000	343,800,000	327,330,000	318,530,000	322,430,000	28,750,000	−21,370,000	−4,900,000	3,900,000
Transition period	7,200,000	87,700,000	83,190,000	79,590,000	81,190,000		−6,510,000	−2,000,000	1,600,000
Operation and maintenance, Army National Guard	607,528,000	678,200,000	649,930,000	650,033,000	649,930,000	42,402,000	−28,270,000		−400,000
Transition period	19,728,000	183,400,000	174,385,000	173,285,000	173,285,000		−10,115,000	−1,100,000	
Operation and maintenance, Air National Guard	648,350,000	723,500,000	690,100,000	703,400,000	697,100,000	48,750,000	−26,400,000	7,000,000	−6,300,000
Transition period	15,100,000	189,200,000	181,500,000	181,200,000	181,200,000		−8,000,000	−300,000	
National Board for the Promotion of Rifle Practice, Army	183,000	233,000		233,000	233,000	50,000		233,000	
Transition period	5,000	73,000	93,000	93,000	93,000		20,000		
Naval petroleum reserve	69,400,000	117,700,000	117,700,000	117,700,000	117,700,000	48,300,000			
Transition period		47,500,000	47,500,000	47,500,000	47,500,000				
Claims, Defense	54,600,000	71,600,000	71,600,000	71,600,000	71,600,000	17,000,000			
Transition period		15,500,000	15,500,000	15,500,000	15,500,000				
Contingencies, Defense	2,500,000	5,000,000	2,500,000	2,500,000	2,500,000		−2,500,000		
Transition period		1,250,000	725,000	725,000	725,000		−525,000		
Court of Military Appeals	1,065,000	1,134,000	1,134,000	1,134,000	1,134,000	69,000			
Transition period		285,000	285,000	285,000	285,000				
Total, title III	25,861,388,000	29,939,581,000	28,286,344,000	28,309,192,000	28,197,382,000	2,335,994,000	−1,742,199,000	−88,962,000	−111,810,000
Transition period	684,184,000	7,628,808,000	7,200,903,000	7,236,133,000	7,230,811,000		−397,997,000	29,908,000	−5,322,000
Total, transfer from other accounts	(56,301,000)					(−56,301,000)			
TITLE IV—PROCUREMENT									
Aircraft procurement, Army	242,800,000	362,300,000	333,500,000	333,500,000	333,500,000	90,700,000	−28,800,000		
Transition period		59,400,000	59,400,000	59,400,000	59,400,000				
Transfer from other accounts	(7,000,000)					(−7,000,000)			
Missile procurement, Army	416,500,000	460,800,000	385,100,000	422,600,000	422,600,000	6,100,000	−38,200,000	37,500,000	
Transition period		56,500,000	41,600,000	42,600,000	42,600,000		−13,900,000	1,000,000	
Transfer from other accounts	(15,000,000)					(−15,000,000)			
Procurement of weapons and tracked vehicles, Army	344,800,000	989,300,000	881,400,000	918,700,000	881,400,000	536,600,000	−107,900,000		−37,300,000
Transition period		282,300,000	255,000,000	255,000,000	255,000,000		−27,300,000		
Transfer from other accounts	(3,000,000)					(−3,000,000)			
Procurement of ammunition, Army	720,200,000	751,400,000	615,500,000	637,200,000	637,200,000	−83,000,000	−114,200,000	21,700,000	
Transition period		271,200,000	164,100,000	252,800,000	252,800,000		−18,400,000	88,700,000	
Transfer from other accounts	(170,000,000)					(−170,000,000)			
Other procurement, Army	681,100,000	1,002,800,000	898,400,000	930,500,000	912,300,000	231,200,000	−90,500,000	13,900,000	−18,200,000
Transition period		197,700,000	197,700,000	197,700,000	197,700,000				
Transfer from other accounts	(3,000,000)					(−3,000,000)			
Aircraft procurement, Navy	2,775,400,000	3,077,000,000	2,972,800,000	2,972,800,000	2,972,800,000	197,400,000	−104,200,000		
Transition period		600,100,000	605,500,000	605,500,000	605,500,000		5,400,000		
Transfer from other accounts									
Weapons procurement, Navy	729,500,000	1,224,200,000	1,155,100,000	1,190,100,000	1,172,600,000	443,100,000	−51,600,000	17,500,000	−17,500,000
Transition period		332,700,000	314,200,000	329,200,000	321,700,000		−11,000,000	7,500,000	−7,500,000
Transfer from other accounts	(10,000,000)					(−10,000,000)			
Shipbuilding and conversion, Navy	3,059,000,000	5,506,000,000	3,832,700,000	3,853,000,000	3,853,000,000	794,000,000	−1,653,000,000	20,300,000	
Transition period		474,200,000	471,200,000	471,200,000	471,200,000		−3,000,000		
Transfer from other accounts	(70,000,000)		(84,500,000)	(75,000,000)	(75,000,000)	(5,000,000)	(75,000,000)	(−9,500,000)	
Other procurement, Navy	1,582,600,000	1,981,900,000	1,810,100,000	1,872,700,000	1,829,700,000	247,100,000	−152,200,000	19,600,000	−43,000,000
Transition period		491,200,000	460,100,000	469,900,000	464,500,000		−26,700,000	4,400,000	−5,400,000
Transfer from other accounts	(20,800,000)					(−20,800,000)			
Procurement, Marine Corps	207,800,000	285,800,000	275,900,000	281,000,000	281,000,000	73,200,000	−4,800,000	5,100,000	
Transition period		43,800,000	40,400,000	40,400,000	40,400,000		−3,400,000		
Transfer from other accounts	(10,000,000)					(−10,000,000)			

DEPARTMENT OF DEFENSE APPROPRIATIONS, 1976 (H.R. 9861)—Continued

Conference agreement	New BA enacted fiscal year 75	New BA estimates 76/Transition	New BA House 76/Transition	New BA Senate 76/Transition	New BA conference 76 Transition	Conference compared with fiscal year 75 enacted	Conference compared with new BA estimate	Conference compared with House bill	Conference compared with Senate bill
Aircraft procurement, Air Force	2,939,900,000	4,575,500,000	3,933,200,000	3,933,700,000	3,933,700,000	993,000,000	−641,800,000	500,000	
Transition period		1,087,100,000	818,400,000	803,100,000	818,400,000		−268,700,000		15,300,000
Transfer from other accounts	(153,600,000)		(24,300,000)	(24,300,000)	(24,300,000)	(−129,300,000)	(24,500,000)		
Missile procurement, Air Force	1,533,700,000	1,791,400,000	1,694,600,000	1,739,500,000	1,723,900,000	190,200,000	−67,500,000	29,300,000	−15,600,000
Transition period		277,400,000	232,000,000	245,900,000	233,000,000		−44,400,000	1,000,000	−12,900,000
Transfer from other accounts	(5,000,000)					(−5,000,000)			
Other procurement, Air Force	1,776,500,000	2,342,800,000	2,010,400,000	2,133,800,000	2,046,400,000	269,900,000	−296,400,000	36,000,000	−87,400,000
Transition period		383,600,000	345,700,000	358,000,000	353,000,000		−30,600,000	7,300,000	−5,000,000
Transfer from other accounts	(12,600,000)					(−12,600,000)			
Procurement, Defense agencies	98,416,000	128,300,000	203,100,000	120,100,000	205,600,000	107,184,000	77,300,000	2,500,000	85,500,000
Transition period		20,900,000	39,600,000	20,900,000	39,600,000		18,700,000		18,700,000
Transfer from other accounts									
Total, title IV	17,108,216,000	24,479,500,000	21,001,800,000	21,339,200,000	21,205,700,000	4,097,484,000	−3,273,800,000	203,900,000	−133,500,000
Transition period		4,578,100,000	4,044,900,000	4,151,600,000	4,154,800,000		−423,300,000	109,900,000	3,200,000
Total, transfer from other accounts	(480,000,000)		(108,800,000)	(99,300,000)	(99,300,000)	(−380,700,000)	(99,300,000)	(−9,500,000)	
TITLE V—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION									
Research, development, test, and evaluation, Army	1,779,339,000	2,181,700,000	1,922,833,000	1,995,596,000	1,948,823,000	169,484,000	−232,877,000	25,990,000	−46,773,000
Transition period	25,386,000	585,600,000	464,774,000	512,451,000	504,452,000		−81,148,000	39,678,000	−7,999,000
Transfer from other accounts									
Research, development, test, and evaluation, Navy	3,006,914,000	3,467,700,000	3,146,050,000	3,265,950,000	3,238,390,000	231,476,000	−229,310,000	92,340,000	−27,560,000
Transition period	17,000,000	903,800,000	801,419,000	824,899,000	818,722,000		−85,078,000	17,303,000	−6,177,000
Transfer from other accounts	(17,000,000)					(−17,000,000)			
Research, development, test, and evaluation, Air Force	3,274,360,000	3,903,200,000	3,591,266,000	3,584,406,000	3,591,266,000	316,906,000	−311,934,000		6,860,000
Transition period	16,493,000	1,034,000,000	906,946,000	900,014,000	901,014,000		−132,986,000	−5,932,000	1,000,000
Transfer from other accounts	(16,493,000)					(−16,493,000)			
Research, development, test, and evaluation, Defense Agencies	491,057,000	597,800,000	599,100,000	557,200,000	604,400,000	113,343,000	6,600,000	5,300,000	47,200,000
Transition period		152,700,000	147,000,000	138,700,000	146,550,000		−6,150,000	−450,000	7,850,000
Transfer from other accounts									
Director of Test and Evaluation, Defense	25,000,000	28,500,000	25,000,000	25,000,000	25,000,000		−3,500,000		
Transition period		6,800,000	5,000,000	5,000,000	5,000,000		−1,800,000		
Total, title V	8,576,670,000	10,178,900,000	9,284,249,000	9,428,152,000	9,407,879,000	831,209,000	−771,021,000	123,630,000	−20,273,000
Transition period	58,879,000	2,682,900,000	2,325,139,000	2,381,064,000	2,375,738,000		−307,162,000	50,599,000	−5,326,000
Total, transfer from other accounts	(33,493,000)					(−33,493,000)			
TITLE VI—SPECIAL FOREIGN CURRENCY PROGRAM									
Special foreign currency program	1,945,000	2,668,000	2,668,000	2,668,000	2,668,000	723,000			
Transition period		37,000	37,000	37,000	37,000				
TITLE VII—GENERAL PROVISIONS									
Additional transfer authority, sec. 834	(750,000,000)	(750,000,000)	(750,000,000)	(750,000,000)	(750,000,000)				
Transition period		(185,000,000)	(185,000,000)	(185,000,000)	(185,000,000)				
TITLE VIII—RELATED AGENCIES									
Defense Manpower Commission	800,000	1,300,000	1,300,000	1,300,000	1,300,000	500,000			
MILITARY ASSISTANCE, SOUTH VIETNAMESE FORCES									
Military assistance, South Vietnamese forces	700,000,000	1,293,000,000				−700,000,000	−1,293,000,000		
Final total	83,439,035,000	97,857,875,000	90,219,045,000	90,721,789,000	90,466,961,000	7,027,926,000	−7,390,888,000	247,916,000	−254,828,000
Transition period	2,107,803,000	23,117,645,000	21,674,571,000	21,849,816,000	21,860,723,000		−1,256,922,000	186,152,000	10,907,000
Total, transfer from other accounts	(648,694,000)		(108,800,000)	(99,300,000)	(99,300,000)	(−549,394,000)	(99,300,000)	(9,500,000)	
Total funding available	84,087,729,000	97,857,849,000	90,327,845,000	90,821,089,000	90,566,261,000	6,478,532,000	−7,291,588,000	238,416,000	−254,828,000
Transition period	2,107,803,000	23,117,645,000	21,674,571,000	21,849,816,000	21,860,723,000		−1,256,922,000	186,152,000	10,907,000
Transfer authority	(750,000,000)	(750,000,000)	(750,000,000)	(750,000,000)	(750,000,000)				
Transition period		(185,000,000)	(185,000,000)	(185,000,000)	(185,000,000)				

Mr. McCLELLAN. Mr. President, I shall be pleased to answer any questions the Members of the Senate may have in regard to this conference report.

Mr. President, I am happy to yield to the Senator from North Dakota.

Mr. YOUNG. Mr. President, the chairman has provided the details of this conference report and I will only make a few brief remarks.

This conference report provides $90,466,961,000 for fiscal year 1976 and $21,860,723,000 for the transition quarter ending October 1, 1976. This appropriation for the defense of our country is $6.5 billion more than the funding that was provided for defense in fiscal year 1975. However, this bill is $7.4 billion less than the budget estimate for fiscal year 1976 and $1.2 billion less than the budget estimate for the transition quarter. Overall for the fiscal year 1976 and the transition quarter, there is a reduction of $8.6 billion below the budget estimate. The conferees were confronted with the difficult task of resolving the differences between the House and Senate bills within appropriations line items that left very little room to adjust the dollars within the totals of the two Houses.

Mr. President, I agree that the conference report represents the best possible compromise with the House. I hope it will be approved.

I want to comment on an article which appeared in the New York Times of December 5, 1975, entitled "Soviets Suspected of Arms Violations." The subheadline says: "U.S. Intelligence Officials Raise Questions About a New Radar Station."

Mr. President, what Congress is doing with respect to our only ABM installation is engaging in unilateral disarmament, I do not believe that is in the best interest of our national defense. I checked with our defense community as to the accuracy of this New York Times article. They say it is not only correct, but the Russians are going beyond what this article indicates. They are building an ABM-type radar on the Kamchatka Peninsula in Northwestern Russia. They are testing out three entirely new types of ABM systems and they are expanding and modernizing their ABM system around Moscow while we are requiring that ours be dismantled, torn down, and moved away. The one exception is the PAR radar, which was saved by Senate action. This PAR radar reaches far up to the North Pole. I hope I am not disclosing too much classified information in saying it can detect incoming missiles as far north as the North

Pole and determine where they are targeted. This gives us 8 to 10 minutes warning.

It is part of a defense system that has great merit.

Certainly, after spending approximately $5.7 billion for the entire system, and $870 million for the site in North Dakota, it would be reasonable to let the Army operate it until July 1 as they requested rather than requiring immediate dismantling. This experience is important to the future Minuteman site defense program. There is in this bill over $100 million for this purpose.

Mr. President, I tried to save the other radar—missile site radar—MSR. The Senate voted to keep it till July 1, 1976, but the House would have no part of it.

The experts in weather modification felt this would be of great importance to them in their meteorological research and weather modification. The School of Mines in South Dakota, which has been deeply involved in weather research and modification, was particularly interested in the possible utilization of the missile site radar—MSR.

Some 10 States have weather modification programs in the breadbasket of the United States where we are short of rainfall, where better crops could be produced if we had a better weather modification program.

This program has given great promise and has gotten considerable results in recent years. In the State of South Dakota almost every county has agreed to levy a tax on their land to carry on this weather modification program at their own expense.

The Weather Bureau has some $5 million for research in this program alone. The House would have no part of it. They wanted this site dismantled.

Mr. President, I ask unanimous consent to have the entire New York Times story of December 5, 1975, printed in the RECORD as a part of my remarks.

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

SOVIET SUSPECTED OF ARMS VIOLATION—U.S. INTELLIGENCE OFFICIALS RAISE QUESTIONS ABOUT A NEW RADAR STATION

(By Bernard Gwertzman)
Special to The New York Times

WASHINGTON, December 4—American intelligence officials have reported to the Ford Administration that the Soviet Union recently constructed a large-scale radar station on the Kamchatka Peninsula, raising new questions about possible violations of the 1972 treaty limiting strategic arms.

According to well-placed Administration officials, the Russians have built very modern "phased-array radars" in the Kamchatka area of the northeastern Soviet Union for use in testing systems of defensive weapons known as antiballistic missiles.

This suspected violation of the strategic arms agreements is similar to the other alleged violations in that it points up the fuzziness of some aspects of the 1972 agreements.

"CURRENT" RANGES QUESTIONED

Article Four of the 1972 treaty allowed two operational sites, in Moscow and at Grand Forks, N.D.—the latter site has subsequently been mothballed—and provided that in addition ABM radars could be emplaced "for development or testing within current or additionally agreed test ranges."

Because this raised questions as to where each side had its "current" test ranges, the United States delegation to the negotiations told the Russians on April 26, 1972, that it understood that the Soviet Union had only one ABM test range, near Sarysagan in Kazakhstan, Central Asia.

High-level discussions are now under way within the Administration on whether the Kamchatka radar violates the 1972 treaty on defensive missiles, and what to do about it.

The sophisticated "phased-array radars" scan by electronic means. The smaller, dish-shaped radars scan mechanically, and are less suited to protect against incoming missiles.

Adm. Elmo R. Zumwalt Jr., the retired Chief of Naval Operations, who was told about the Kamchatka site, told the House Select Committee on Intelligence this week that it was a "clear and precise" violation. Some Administration officials are not so sure.

As with other alleged Soviet violations of the 1972 ABM treaty and the accompanying limited accord on offensive weapons, it is almost impossible to prove that the Russians did not technically comply with the agreements.

Despite several charges of Soviet violations, the Administration has consistently concluded that, at worst, the Soviet Union was not living up to the spirit of the agreement. President Ford has stated there were "no violations."

A STORM IN WASHINGTON

Nevertheless, the Soviet actions have created something of a political storm in Washington, of which Kamchatka issue is only the latest flurry.

Political conservatives such as Admiral Zumwalt, a possible candidate for the Senate in Virginia, or Senator Henry M. Jackson, an announced candidate for the Democratic Presidential nomination, are arguing that the actions demonstrate that the Russians cannot be trusted and that the Administration was naive.

Moreover, the direct role of Secretary of State Henry A. Kissinger in negotiating the 1972 accords and current efforts to conclude a treaty on offensive weapons is a factor. Charges about the Russians have been turned into arguments that Mr. Kissinger was deliberately closing his eyes to violations, deceiving the President, Congress and the public—something he vehemently denies.

The issue has been clouded by its complexity. Very few people can understand the technical aspects. The Administration, moreover, to protect its confidential diplomacy, has refused to disclose the allegations publicly. Thus, information is provided, for the most part, in a contentious way by critics such as Admiral Zumwalt, or in highly selective and incomplete briefings by Administration officials.

"We interpret the reference in Article Four," the American delegation to the negotiations said in April, 1972, "to 'additionally agreed test ranges' to mean that ABM components will not be located at any other test ranges without prior agreement between the governments that there will be such additional ABM test ranges." United States ABM ranges are at White Sands, N.M., and at Kwajalein Atoll in the Pacific.

NO SOVIET YES OR NO

The Russians, however, did not confirm or deny the American statement, merely replying on May 5, 1972, that "national means permitted identifying current test ranges."

Presumably, the new radar in Kamchatka would be useful to monitor Soviet long-range offensive missiles that are fired regularly either from Kazakhstan or Siberia, land in Kamchatka or go over it and end up in the Pacific Ocean.

The Saryagan range has been used in the past to monitor Soviet intermediate-range missiles fired from a test site east of Volgograd, officials said.

What troubles American officials is whether there is proof that the Russians have built a new ABM test range in Kamchatka or whether they have merely modernized an old one. There have always been old-fashioned dished-shaped radars in Kamchatka; the Russians could say that it always was an ABM test range and thus permissible.

It has also been charged that the Russians have replaced their light missile, the SS–11, with a much larger weapon, the SS–19, after both sides had agreed not to convert light-missile launchers into heavy ones.

Two years ago the Russians began digging underground works identical to their missile silos, in possible violation of the treaty's prohibition against new missile silos. But the Soviet Union said the 150 to 200 new silos were for command-control centers, and American intelligence accepted that explanation. The Russians have also been accused of covering up work on submarine construction and on mobile missile launchers, contravening the accord.

In turn, the United States has been charged by the Russians with covering up some Minuteman sites while new concrete was being poured. The accords called on each side not to impede the ability of the other to check on compliance.

Admiral Zumwalt also charged this week that the Russians had begun interfering in other ways with American satellites flying over the Soviet Union, but Administration officials denied that American capabilities had been impaired.

Mr. YOUNG. Mr. President, I would like to make an additional comment concerning the New York Times article. This story was called to my attention by the distinguished Senator from Florida (Mr. STONE) and I am grateful to him for it. I do not know of a Senator who has made a better record for himself and in a more timely way than the Senator from Florida. I particularly appreciate his interest in a strong national defense.

Mr. MANSFIELD. I could not agree more.

Mr. President, it is my understanding that several Members of the Senate want to speak on the situation in Angola, and I think it is a situation which merits some talk and some debate.

What we are doing in Angola is unknown to most Americans and, according to the information we get, not in committee, not from the administration, but primarily through the newspapers, it is to the effect that $25 million has already been allocated to Angola for covert operations; that $25 million more is anticipated, and there are even some reports to the effect that even more beyond that $50 million total is to be used in covert operations in Angola.

What we have in that country are three factions striking for control: one, backed by the Soviet Union and Cuba through the use of Cuban troops under a man by the name of Neto; and two others, Mr. Savimbi and Mr. Roberto Holden backed by various other outside interests, including Zaire, the Republic of China, the United States, South Africa and, perhaps, others.

Frankly, I hope—and I have so indicated—that the entire Committee on Foreign Relations would call Secretary Kissinger and CIA Director Colby for the purpose of finding out what the facts are actually in regard to our intervention

covertly in Angola so that we could become better informed and, in that respect, I am delighted that the distinguished Senator from Iowa (Mr. CLARK) will offer an amendment in the Committee on Foreign Relations tomorrow seeking to bring about some order out of the confusion which confronts us in Angola at the present time. But, despite that, I still want the full Committee on Foreign Relations to consider this question so we will know where we are and where we are going.

Mr. JAVITS and Mr. McCLELLAN addressed the Chair.

Mr. McCLELLAN. Mr. President, will the Senator yield? How long a debate do we anticipate on this issue?

Mr. MANSFIELD. Until 1 o'clock.

Mr. McCLELLAN. Can we set a time for voting now on this conference report?

Mr. JAVITS. Mr. President, will the Senator yield to me? I just wanted to express my complete concurrence with the Senator. It needs to be looked into. I am a member of the Committee on Foreign Relations, and I would like to join with Senator MANSFIELD in being sure our committee thoroughly reviews the matter, and that Senator CLARK's amendment will give us a substantive opportunity, and to do that in a perfectly orderly way.

REQUEST FOR UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the vote on the pending conference report occur at the hour of 1 o'clock to be followed at 1:15 by the vote on the treaty.

Mr. TUNNEY. Mr. President, reserving the right to object, when we say the conference report are we now talking about the supplemental appropriation?

Mr. MANSFIELD. The defense appropriation conference report.

Mr. TUNNEY. Well, further reserving the right to object, Mr. President, I would like, before we agree to any vote on this measure, to find out from the very distinguished chairman of the Appropriations Committee exactly what is in this bill with respect to Angola, and I will object to any unanimous-consent request until we have an opportunity of further colloquy and to find out what we are voting on.

Mr. MANSFIELD. If the Senator will yield, that is perfectly acceptable. Therefore, Mr. President, I withdraw my request. But I inform the Senate if there is no vote on this bill at that time the Senate will then turn to the consideration of a vote on the trade treaty with the Soviet Union to be followed, as agreed to by the Senate last week, by the taking up of the tax bill, H.R. 5559; at 4 o'clock that will be laid aside for the purpose of voting on a yea-and-nay vote on the conference report on common situs picketing, and when that vote is concluded we will then once again return to the tax bill.

The PRESIDING OFFICER. Is there objection?

Mr. MANSFIELD. I withdraw my request.

Mr. McCLELLAN. Mr. President, do we have any idea now when we can have a vote on this resolution?

Mr. MANSFIELD. At the moment, no.

Mr. TUNNEY. Mr. President, I rise today to express my concern over the course of events in Angola. Over the past week the Angolan situation has deteriorated rapidly, and I would like to say to my distinguished and esteemed colleague, the chairman of the Committee on Appropriations, that the reason why I have objected to a unanimous-consent request for a time definite to consider the defense appropriation bill is my concern about Angola.

I think we have to have some understanding of what is in this bill for Angola. There are a number of us on the floor today who are prepared to speak on this subject and to direct some questions to the distinguished Senator from Arkansas, the chairman of the Appropriations Committee.

Reports are surfacing in the press indicating that the United States has provided or is prepared to provide up to $50 million to two of the three warring factions in Angola in the interest of attempting to stem the tide of the Soviet-backed Marxist movement for the liberation of Angola.

On Saturday Secretary Kissinger was quoted as distinguishing the Angolan involvement from American involvement in Vietnam by saying the Vietnam conflict had a much longer, and more complicated, history.

Perhaps from Dr. Kissinger's grand global perspective this conflict has had a shorter history, although the African experts I and my staff have spoken with have indicated that the basically tribal nature of this conflict goes back many, many decades.

But I for one would have personally felt a great deal more secure if the Secretary of State had said that the real difference between Angola and Vietnam was that we were not going to get involved at this time.

Mr. President, I am sorry that we should have at this time to enter into a colloquy, a dialog, with respect to American intervention in underdeveloped areas of the world. I am tired, the Congress is tired. The American people are tired of the United States intruding into areas where it should not be.

For the past 30 years, to paraphrase former Senator Taft, we have given the military adventurists what they wanted and they have, indeed, gone everywhere and done everything, getting us involved in everybody else's business from Asia to Latin America and now, it seems, in Africa.

What has it gotten us? I will state that it has gotten us repressive right-wing dictatorships as allies all over the world. It has gotten us thrown out of Southeast Asia and has brought about the collapse of three pro-Western regimes. It has gotten us hundreds of billions of dollars in debt for weapons and more weapons. It has cost us 55,000 American lives. It has brought us to the point where we have so alienated third world nations of the United Nations that we cannot even muster the votes to defeat a totally irresponsible resolution on Zionism.

Now, once again, the phoenix of military adventurism in the guise of making the world safe for democracy has risen from the ashes of Southeast Asia.

It seems we were not content to alienate half the world over our involvement in Vietnam, we are now determined to alienate the other half of the world with regard to an involvement in Africa, in Angola, and side by side no less with the repressive white supremacist regime in South Africa.

That, Mr. President, is the crux of the situation in South Africa.

The South Africans have hundreds if not thousands of troops assisting the Union for the total independence of Angola.

On top of that, hundreds of white mercenaries have been hired from all around the world, many from the United States itself, to fight on the side of the South Africans and their allies.

The racial inference is clear.

In response to the South African intervention, 13 African states have declared their public support for the MPLA and even more have privately indicated their backing.

The largest single black state in Africa, and unquestionably the most influential and basically pro-Western, Nigeria, has even allowed the Soviet Union to use facilities in their country to supply MPLA forces.

Why is this? Do the Africans not realize the danger of Soviet interventionism? Why does a country like Nigeria, whose pro-Western, attitudes have been demonstrated again and again, indeed whose ruler is Western educated, a Sandhurst graduate, fail to perceive the threat to its security posed by Cuban and Russian advisers?

Mr. President, the reason is that the Africans do not perceive this as the grand checkmate move in Soviet world strategy that Secretary Kissinger does. They see it for what it is: an internal conflict growing more out of tribal animosities than from any real difference in ideology.

They do not like Soviet intervention any more than we do, but they like South African intervention even less.

They point out that this is the first time the South African forces have entered into combat on the soil of another African nation and they view that as a direct threat to their own independence.

By going in on the side of the South African backed faction, we are not only not acting to limit Soviet penetration in Africa, we are opening wide the door to charges that the United States has always been and always will be on the side of the reactionary regime in South Africa, rather than on the side of African independence and racial equality. The damage that such an inference will do is enormous.

Nobody wants to stand by and let the Soviets run roughshod over Africa, nobody wants to see the Soviet ensconced in a West African base astride our vital oil lanes.

But I ask, what have we gained if, at a cost of millions in American dollars, we save Angola and lose the entire continent of Africa in the process because of our support for the South Africans?

If the Soviets are taking advantage of the Angolan situation, as indeed I believe they are, then let us go to the heart of the problem, the leadership in the Soviet Union. Let us make it clear to them that we view their interference there as inconsistent with détente, that if they want progress in the SALT talks if they want American technology and investment and, most important, if they want American grain now or any time in the future they had better seriously weigh the cost of the intervention in Angola.

It has disturbed me for some time that the United States is perfectly prepared to take the one real economic weapon that we have available to us, our agricultural supplies, our wheat and feedgrain, and enter into long-term agreements with the Soviet Union without getting any commitment on the part of the Soviet Union that they are going to start living up to their responsibilities under SALT, under Helsinki, and under Vladivostok. But more particularly, and specifically as it relates to Angola, that they are going to stay out of tribal brushfires.

I personally cannot see the United States sending large shipments of grain to the Soviet Union which they desperately need in order to satisfy their own people and also to meet their own foreign policy commitments, if much of the grain we ship to the Soviet Union is, once again, used by the Soviets to free supplies for allies like the MPLA. It makes no sense for us to do that when they are going, to ignore, in the case of Angola, the principle of restraint that the United States considers to be vital for the maintenance of world peace.

And the same is true of the Cubans. If they want the East-West thaw to apply to them, then it should be made very clear that as long as they are sending troops to Angola, there will be no changes in American policy toward the Castro regime.

In short, let us take action to stop the Soviets and the Cubans. But let us not do it unilaterally and through the use of any American advisers or "volunteers" or through the massive introduction of American military might. The time is long past due to sit down with our African friends like Nigeria and Zaire, or at the Organization of African Unity and work out a common approach.

But above all, let us not ignore the feelings of those who stand to proximately gain or lose most from a great power confrontation in Angola—the Africans themselves. We must keep a close reign on the arrogant attitude that says we have the duty or the destiny or even the right to prescribe the course of government of an African state which our own policies have largely ignored in the past.

In the poll after poll in recent years the American pople have made it clear—no more Vietnams. We, in this country are prepared to fight to defend freedom. We are no longer prepared to squander the lives of our young men and our treasure in foreign policy adventures that bear no true relation to our own national security.

Mr. MORGAN assumed the chair at this point.

Mr. TUNNEY. I do not believe we can sustain any additional inflation.

Mr. CRANSTON. Mr. President, I would like to applaud my colleague for the leadership he is displaying in this matter, for all the reasons he has expressed, and also for the reasons expressed by the majority leader (Mr. MANSFIELD). I am totally in support of the effort to learn all the facts about Angola, and to make certain that we do not get dragged, by any means or to any degree, into a situation more similar to Vietnam than Angola already appears to be similar to Vietnam. If we let this legislation or any other legislation that has any direct relevance to Angola pass without knowing what we are doing first, we could well be involved in another Gulf of Tonkin resolution.

The fact that the Senator from California has made plain that he does not want to vote on this until we know what we are doing is a very significant action taken by my colleague.

If I may, I would like to have the attention of the chairman of the committee and to ask a very few questions of him.

The conference report states:

> The conferees also agreed to a reduction of $64,300,000 in intelligence activities instead of a reduction of $94,500,000 as proposed by the House and a reduction of $28,900,000 as proposed by the Senate.

I would like to ask the distinguished chairman, so we can know what we are doing before the vote on this conference report, if any funds for Angola are included in this measure?

Mr. McCLELLAN. There are no funds included in this measure for Angola, specifically so. Whether any funds under this bill could be used is another question. That is a matter that three committees can determine, including the Foreign Relations Committee, the Armed Services Committee and the Appropriations Committee. I believe hearings are already scheduled.

There are no specific funds in this bill for Angola.

Mr. STONE assumed the chair at this point.

Mr. CRANSTON. I thank the chairman very much for that direct response. I gather that while funds are not earmarked for Angola, funds which are being appropriated in this measure could be used for Angola.

Mr. McCLELLAN. I am not saying that there are or are not. As the Senator knows, there is certain intelligence information that we cannot give out, although we have three intelligence committees. One is a subcommittee of the Appropriations Committee; one is specific members of the Armed Services Committee; and another is the members of the Foreign Relations Committee.

Mr. CRANSTON. If the measure does contain funds that could be used for Angola, would there be merely an advice to the appropriate committees that the administration proposed to do so?

Mr. McCLELLAN. What was the question?

Mr. CRANSTON. Would there be merely information given to the Appropriations, Foreign Relations, and the Armed Services Committees that the administration decided to do this, or would there be a veto in the hands of the Senator's committee?

Mr. McCLELLAN. They can do that, yes.

Mr. CRANSTON. Would the Senator's committee have a veto over the use of such funds?

Mr. McCLELLAN. I think it is required that we be advised.

Mr. CRANSTON. Is that a matter where the whole committee would be advised or just the chairman and the ranking minority member?

Mr. McCLELLAN. Under the present rules and the way we operate, it would only be those on the Intelligence Operations Subcommittee, together with the specifically designated members of the other two committees, the Foreign Relations Committee and the Armed Services Committee. The entire Foreign Relations Committee, I understand, would have that information.

Mr. CRANSTON. Could I ask if the chairman was consulted before a decision was made in the administration, I gather by the 40 Committee, to earmark $50 million for Angola?

Mr. McCLELLAN. I could not go into that matter here in the Chamber.

Mr. CRANSTON. I would like to ask one other question of the chairman and then I would like to ask a question of the Senator from Iowa (Mr. CLARK).

I gather from a report of the New York Times, and that is my only source for this information, an article by Seymour Hersh which appeared December 14, that in the spring there was $300,000, according to that story, earmarked for Angola. By July that was $10 million. Then it was raised to $25 million and now it is up to $50 million. Has there been full consultation with the chairman's committee as those increases in funds have been allocated?

Mr. McCLELLAN. I cannot go into that information here in the Chamber. As the Senator knows, this is an arrangement which has been made and I am simply carrying out what has been the practice heretofore. If the Senate would want to pass a resolution making public all information available, of course, it has the power to do so. But until that is done I would have to observe the present requirements. The Foreign Relations Committee has equal power to make everything public if it wanted to, I believe.

Mr. CRANSTON. I thank the chairman very much.

I would like to ask the Senator from Iowa (Mr. CLARK) one question.

Was the Foreign Relations Committee informed "in a timely fashion" under the Hughes amendment to the Foreign Assistance Act of last year when $50 million was allocated by the administration, apparently by a decision of the 40 Committee, to Angola?

Mr. CLARK. Under the Hughes amendment, the Foreign Relations Committee and the Armed Services Committee are advised after the fact. There is no requirement, no veto, no action that those committees may take. I understood the chairman of the Appropriations Commit-

tee to say that they, in fact, have a veto in the sense, I assume, that they could refuse to transfer funds. But the Foreign Relations Committee is simply reported to after the fact, and they have no jurisdiction over it for decision. They have no veto.

Insofar as I know, they have no way in which to register their disagreement other than simply saying so. But certainly the President and the administration are in no way bound by what they say.

In terms of being informed, although the Hughes amendment calls for the full committee to be advised, the fact is it is done by convenience. The chairman and the ranking Republican are advised and then a circular goes to the remainder of the committee. Any other members of the committee who wish to be briefed on that briefing are briefed, if they so desire.

Following the fact, after the decisions were made, those reports were regularly made to the committee.

Mr. CRANSTON. I thank the Senator very much. I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. TUNNEY. Mr. President, I am delighted to be able to yield the floor and yield to the Senator from Idaho. I just have one statement that I wanted to make in conjunction with what my distinguished colleague from California said and then I shall yield.

One of the things which has disturbed me about the moneys that we are providing in Angola is that they are shrouded in a cloak of secrecy. I can understand why our distinguished colleague from Arkansas, the chairman of the full committee, feels that in the Chamber he is bound by the confidentiality of the information he has received from the Department of Defense and presumably from the CIA. But on the other hand that does not help those of us who have to vote on a procurement bill, some of which money may be provided to Angola. In effect, we are going to be voting for moneys which may be used in a way that we do not want them used.

I cannot help but think that we are entitled to have the information, not necessarily from the distinguished chairman of the Appropriations Committee, but from the CIA and the Pentagon as to how those moneys are going to be used and whether or not they are going to be used in Angola.

This morning a member of my staff called the CIA and asked them to come and discuss with me the question of moneys for Angola. Their representative said that they would be happy to discuss with me what the Soviets were doing in Angola but they could not discuss with me what we were doing in Angola, which seemed to be a kind of ironic commentary on the nature of doing business around Washington.

I, for one, cannot help but feel that if we look to the future, as we see what Ambassador Moynihan said today, about how important the sea lanes are and how important the oil in Angola is, and if you tie that into what the Secretary of State said recently about the importance of Angola, that we are preparing a full-scale intervention in Angola insofar as the shipment of American arms and money to that beleaguered part of the world is concerned. And I am very deeply concerned about it. I, for one, do not think we ought to have a vote on this appropriation bill until some of us who are involved in the same shroud of ignorance that I am shrouded in—I think we just cannot have a vote until we get a better understanding of what is going on, As such I plan to request a closed session of the Senate so we can set some answers to the questions on Angola. I am happy to yield to the distinguished Senator from Idaho.

Mr. CHURCH. I thank the Senator very much.

First of all, Mr. President, let me say that the Select Committee on Intelligence, which has been charged with investigating all of the intelligence agencies, including, of course, the CIA, was briefed in considerable detail sometime ago on this covert action in Angola.

Our committee operates under very strict rules of secrecy. It has been one of the most leakproof committees ever to conduct a major investigation; and so members of the committee and of the committee staff were very careful to say nothing about the actions being taken by the United States in that African country.

But the discussion on the floor this morning underscores the need for different arrangements in Congress in order to deal with significant covert operations. As the Senator from Iowa (Mr. CLARK) has said, under present law certain committees of Congress, including the Foreign Relations Committee and the Armed Services Committee, are simply advised after the fact, as indeed we were on the very committee that is charged with the principal responsibility of investigating the activities of these various intelligence agencies. We, too, were advised after the fact.

If Congress is ever to have a check on covert action abroad, then new procedures must be established. I would hope that Congress would choose, in the months immediately ahead, to establish a permanent oversight committee on intelligence, which would be empowered not only to obtain all such information, but, whenever a significant covert action is contemplated by the executive, that this special committee on oversight would have advance notice of the intention, so that the committee could consult with the executive and express its own views before the operation began.

It comes close to comedy, I think, that the Congress of the United States, acting through its responsible committees, should have no other function but to be advised, after the fact, of an involvement so serious that it could broaden into another war. And that comedy turns into tragedy when Members of Congress must read about such an operation, for the first time, in the Washington Post, and learn that the details concerning the operation have been disclosed by our representative at the United Nations, Mr. Daniel Patrick Moynihan, in a television broadcast.

That is the predicament in which we find ourselves. And what is it, Mr. President, that our Ambassador, Mr. Moynihan, says in justification of what he now reveals to be a $50 million operation in Angola? What is the justification he gives for it? Let me read from the Washington Post:

> U.N. Ambassador Daniel Patrick Moynihan warned today that if the U.S. opposition to Soviet activities in Angola ends, "the Communists will take over Angola, and thereby considerably control the oil shipping lanes from the Persian Gulf to New York"
>
> Moynihan also warned that the Soviet Union would then control a "large chunk of Africa" and pose a military threat to Brazil. "The world will be different in the aftermath, if they succeed," he said.

Well, now, Mr. President, if we have not lost all of our commonsense, I suggest that such exaggerated statements about the importance of Angola and the effect of Russian influence there are so extreme as to be part of what Mr. Moynihan himself last week described the General Assembly of the United Nations as being, that is to say, a theater of the absurd. These arguments belong in a theater of the absurd.

If Angola is of such vital interest to the United States that we must begin to spend millions of dollars in a mushrooming war there to prevent a Soviet-backed faction of Angolans from forming the government, then there is no country anywhere in the world concerning which an American intervention could not be justified. Shades of the arguments that led us into Vietnam. I sometimes think that our policymakers are like the Hapsburgs who remembered everything and learned nothing. If they had learned anything about recent African history, they would know that what is happening in Angola is that two factions are making use of the Soviet Union, on the one hand, and the United States, on the other, to provide each contending group with money, weapons, and the wherewithal to carry on a civil war. Whichever side wins, that side will be Angolan. It will not be Russian; it will not be American. It will be Angolan.

In Africa today there is no compulsion that can be equated with the compulsion and desire for independence, and by that I mean not simply juridical independence, which now has been achieved by the severance of the ties that bound Angola to Portugal, but actual independence from foreign domination.

These young African countries will not be dominated for long by any foreign power, least of all a white power. It is our short-sightedness that leads us into such follies as Angola.

I remember when the same arguments were being made about Algeria. It was said that the newly formed independent Government of Algeria under Ben Bella was a Russian satellite and that we had lost one of the most important countries of Africa, bordering on the Mediterranean itself.

Angola borders on the South Atlantic. It is closer to Antartica than it is to Washington or to Moscow.

But what happened in Algeria? It was only a matter of a few months until the very tanks the Russians had supplied the

Algerian Army encircled Ben Bella's palace, and Mr. Ben Bella was abducted, disappeared, and later assassinated, by the new government which had taken over.

I can remember how concerned we were about the extent to which the Russians had moved into Egypt, but the Egyptians turned out to be more concerned, Mr. President, and it was not long until the Russians were unceremoniously pushed out of Egypt.

If we took a longer view of history, I think we would not become so frightened by interventions in Africa on the part of the Russians. We would adopt a policy that does not simply mimic the Russians.

Furthermore, as the Senator from California points out, once we intervene in these post-colonial civil wars, we almost invariably intervene on the wrong side, and that is what we are proceeding to do in Angola, for our Ambassador, Mr. Moynihan goes on in this article to warn about the convergence of our policy with that of South Africa.

Can Senators imagine a convergence more self-defeating, more calculated to guarantee that the faction we now choose to support will lose?

It does not take a student on African affairs to understand that any convergence with South African policy in that part of the world is tantamount to the guarantee of ultimate defeat.

So I suggest that the arguments presented by the Senator from California are eminently sound. We do not belong in Angola. We ought not to participate there in a conflagration that could be open-ended. Congress, at the very least, before voting money, had better find out now, what we are getting into. We had better have an up-and-down vote in this Senate so everyone can assume a responsibility for what ultimately may follow.

I commend the Senator for his effort to do just that.

Also, before I close, I wish to congratulate the distinguished Senator from Iowa on an amendment he has offered to the military aid bill which is now pending in the Committee on Foreign Relations. That amendment is similar to certain amendments with which I was associated in the effort to limit and finally to bring an end to the war in Vietnam and in Cambodia, because it relates to the purse strings. It would provide, if enacted, that no money in the military assistance bill or any other bill could be used for the purpose of financing this involvement on our part in the Angolan civil war.

I hope, one way or the other, that Congress soon faces up to this issue, and I commend both Senators for their efforts in this regard.

Mr. TUNNEY. Mr. President, will the Senator yield for a 15-second observation?

Mr. CLARK. Yes.

Mr. TUNNEY. I do not wish to take any time of the Senator from Iowa. We only have 5 minutes remaining before the vote on another matter.

But at the appropriate time this afternoon, I plan to make a request for a secret Senate session, so that we can hear more from the distinguished chairman of the Committee on Appropriations and anyone else who has any information on the subject matter of whether funds in this appropriation would be made available or could be made available to Angola.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. TUNNEY. Yes.

Mr. ROBERT C. BYRD. The Senator is aware that at 1 p.m. we have a vote on the treaty, and upon the disposition of the vote on the treaty, under the order previously entered, the Senate takes up the tax bill. I mention that as something the Senator might wish to think about.

Mr. TUNNEY. I shall have a chance to discuss it with my distinguished leader during the next few minutes while the Senator from Iowa is making his remarks, but I wish today to have an understanding that we would have a secret session, or I shall make a motion that we do have a secret session to bring out the facts as they relate in this appropriations bill to Angola.

Mr. CLARK. Mr. President, I join the Senator from California, and at the appropriate time I shall second the amendment to go into a closed session, because it seems very important that we not pass on money here today that could indeed be used in Angola without the Senate's knowledge.

The chairman of the Committee on Appropriations is entirely right in saying that ought not be done here in public session. For those reasons, it is wise to wait until that time.

As I understand it, in 2 minutes we are going to move to a vote, so I wish to, in effect, take some time later this afternoon when this bill comes back in the Chamber again, but let me say that——

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. CLARK. Yes.

Mr. ROBERT C. BYRD. For his consideration, the bill may not necessarily come back in the Chamber this afternoon. But at such time as it is again before the Senate, Senators will have their rights.

Mr. CLARK. That is correct.

But I join with the distinguished Senator from Idaho in commenting very briefly on Ambassador Daniel Moynihan's comments on television yesterday which were reported in the Washington Post today saying that the Communists will take over Angola and thereby considerably control the oil shipping lanes from the Persian Gulf to New York and that further it poses a military threat to Brazil.

I suggest, Mr. President, that there is a very good chance that this does not represent our Government's position.

As a spokesman from the State Department is quoted as saying later in the article, Mr. Moynihan seems to have a special talent for taking positions for the administration, which the administration in fact does not support itself.

I have been advised on many occasions over the last several weeks about Angola, both from the CIA and the State Department, and no one has ever suggested for one moment that our interest there involved Brazil or the oil shipping lanes from the Persian Gulf to New York. It is a ridiculous assumption. Senator CHURCH is right in referring to this as an absurd comment.

Indeed, the Ambassador's statement in the United Nations and the General Assembly this year make him one of the most absurd of the players, I think.

I simply say that I wish to ask the chairman of the Committee on Appropriations when we go into closed session, and I shall ask him now at least so that he might give some consideration to this question, whether in fact it is possible, that is to say, legally possible, that there is money in this bill which could be used for covert activities in Angola. I do not expect him to answer on that in open session. But that will be my question.

Mr. President, I intend to return to this subject when this matter is before the Senate later in the day or later in the week.

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

Mr. CLARK. I yield.

Mr. TUNNEY. Mr. President, the Senator's work in the Committee on Foreign Relations is commendable. I feel that insofar as this appropriation bill is concerned, we should be prepared to have a very clear understanding that none of the money is going to be available for Angola. I am prepared to offer an amendment at the appropriate time that no money can be used for such purpose.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to proceed for 1 minute before the vote.

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

ADDITIONAL STATEMENTS SUBMITTED ON DOD APPROPRIATIONS CONFERENCE REPORT

THE SENATE SHOULD REJECT THE DOD APPROPRIATIONS CONFERENCE REPORT

Mr. HATFIELD. Mr. President, I urge my colleagues to join me in voting against the conference report on the Defense Department appropriations bill. Even though the amount appropriated is approximately $250 million below that approved by the Senate, it is still at the staggering level of $112,426,984,000 for the fiscal year 1976 and the transition period. This amount is far more than adequate to defend this country, maintain our commitments abroad, and insure military strength second to none. In addition, the bill includes funds for several weapons systems which are either unnecessary or dangerously destabilizing in terms of the nuclear balance.

In its action of the bill, the Senate deleted advance procurement funds for the controversial B–1 bomber, thus postponing a final production decision until such time as the projected costs and benefits of this airplane could be analyzed on the basis of more complete test results. In conference, these advance procurement funds were restored in return for a reduction in research and development funds.

Mr. President, as we all are well aware, there has been considerable debate about the practicality of a manned strategic bomber in this age of ICBM's and SLBM's with MIRV and possibly, MARV warheads. I for one believe that this bomber is not needed and that we should not build it. Even those who disagree on that point, however, can agree that we

should not provide procurement funds until the decision has been made.

Another item: The conference agreed to funding for 4 AWACS aircraft, two more than the House originally provided for, and two less than the Senate included in its bill. Time and again, Mr. President, our distinguished colleague from Missouri (Mr. EAGLETON) has led this body in debate on this aircraft, and demonstrated its inefficiency and ineffectiveness. Further tests recently have not dissipated doubts about the aircraft's performance of its mission. The security of our Nation and that of our allies is not improved by this airplane, and we certainly cannot afford it.

The House agreed to the substantially higher Senate figure for the XM–1 tank, and thus we are to vote soon on funding a weapon that has been made obsolete by technological advance. Students of the Yom Kippur war, Mr. President, know that tank losses were very serious, so serious, in fact, that more tanks were lost on both sides in that short war than were lost in all of World War II. Only a few of those losses were attributable to airplanes, and a good number of the Israeli losses were attributed to use of the Russian "Sagger" missile, a TOW missile similar to our own. Tube-launched, optically sighted, wire-guided—TOW—missiles are cheap, easily used, and very effective. Million-dollar tanks that can be destroyed by $10,000 missiles carried by a two-man team are not cost-effective, and should not be built.

Finally, Mr. President, the conference report agrees to the Senate's restoration of funds cut by the House for the development of the air-launched cruise missile. I consider this to be the worst element of this conference report. The House's action had offered some hope that cruise missiles could be stopped short of production and deployment, thus avoiding another escalation of the arms race, even though funds for the sea-launched cruise missile were left untouched. Cruise missiles, and especially sea-launched cruise missiles, are terribly destabilizing to the nuclear balance, pose serious threats to ongoing SALT negotiations, could render meaningless the Vladivostok Accords, and would add a fourth leg to the TRIAD even while we are constantly being assured that TRIAD gives us the upper hand. There is no necessity for this weapon whatsoever, but since technology makes it possible, missions will be invented for it and funds appropriated for its development, despite the serious consequences.

Mr. President, I intend to say more on the subject of cruise missiles when the Senate next considers the authorization bill. At this time, let me only say that money for this weapon alone is sufficient reason to vote against the conference report. Combined with the other items I mentioned, the case is more compelling, and I urge my colleagues to vote against this measure.

Mr. CRANSTON. Mr. President, earlier today, during debate on the defense appropriations bill conference report, there was a discussion of CIA funding of activities in Angola. I ask unanimous consent that an informative article on the Angola aid issue, written by Seymour Hersh in Sunday's New York Times be printed in the RECORD. I hope my colleagues will note the different installments approved for Angola within the executive branch—by the Forty Committee—and then ask: When did Congress approve or authorize these moneys? Or did it?

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

ANGOLA-AID ISSUE OPENING RIFTS IN STATE DEPARTMENT—HEAD OF BUREAU OF AFRICAN AFFAIRS SAID TO HAVE QUIT OVER KISSINGER REJECTION OF HIS BID FOR A DIPLOMATIC SOLUTION

(By Seymour Hersh)

WASHINGTON, December 13.—A sharp dispute over covert operations by the Ford Administration in Angola has bitterly divided the State Department and resulted in the resignation of the head of its bureau of African affairs, according to well-informed Government sources.

The sources, in a series of interviews this week, said that the bureau head, Nathaniel Davis, resigned in August as Assistant Secretary of State for African Affairs after Secretary of State Henry A. Kissinger rejected his recommendation that the United States seek a diplomatic solution in Angola and play no active role in the country's civil war.

In fact, a number of sources said, Mr. Davis resigned a few weeks after a high Administration body, acting upon the strong recommendations of Secretary Kissinger and William E. Colby, Director of Central Intelligence, authorized the covert shipment in mid-July of up to $10 million worth of arms to two factions in Angola.

WHEN OPERATIONS BEGAN

The Central Intelligence Agency has since been authorized to provide at least $50 million worth of arms to the National Front for the Liberation of Angola and the National Union for the Total Independence of Angola, which have joined forces to oppose the Soviet-backed Popular Movement for the Liberation of Angola.

[In London, where Secretary Kissinger was conferring with British officials, reporters were told that he was understood to feel that the United States acted slowly in Angola last summer because of the repercussions from past revelations of covert American operations. The American support in Angola was to counter heavy shipments of arms to the Popular Movement by the Soviet Union and the presence of Cuban fighting men on that faction's side.]

"UTTERLY WRONG"

The sources, who have had access to many communications between Mr. Davis and Mr. Kissinger, said that Mr. Davis began expressing opposition to the Angolan policy shortly after his appointment as an Assistant Secretary last April.

"Davis resigned," said an official who is closely involved, "because he believed the policy was utterly wrong. The decision had gone against him and he was unable to carry out a policy he was inimically opposed to."

Steven Wagensell, a State Department press officer, said that the Department would have "no comment" on the disclosure.

Mr. Davis, a career diplomat who has since been reassigned as Ambassador to Switzerland, refused to comment late yesterday after being told the gist of the report.

THE CHILEAN FACTOR

The State Department did not formally announce his resignation, or the reasons behind it. But an unidentified spokesman told the Washington Post late in August that Mr. Davis had left his assistant secretaryship post because of opposition from African leaders and the Black Caucus in Congress. That opposition was said to have stemmed from the fact that Mr. Davis was Ambassador to Chile while covert C.I.A. operations were going on there.

At the time, it was said, opposition to the Angola policy was widespread throughout the Bureau of African Affairs and, after a thorough review of the Angolan situation in late spring, the Bureau recommended that the United States stay out of the conflict.

In recent months, many sources said, there has been a series of personnel changes in the bureau and orders have been issued severely limiting to only a few of its key officials the distribution of classified cables and other documents relating to Angola.

ANOTHER CUTOFF REPORTED

In addition, the sources said, a similar cutoff to intelligence information has been authorized for many officials involved with African affairs inside the State Department's Bureau of Intelligence and Research. That bureau also expressed formal disagreement last summer with the devision to begin supplying arms and other aid to anti-Communist factions in Angola.

All of the officials interviewed were quick to express dismay and anger at the Soviet Union for its decision early this year to increase military shipments to the Popular Movement.

DAVIS STRESSED DIPLOMACY

The sources said, however, that Mr. Davis and others in the State Department repeatedly argued that the appropriate United States response should be diplomatic.

"Davis argued that we must mount a diplomatic effort—a multinational effort—to get a settlement," one official said. "He said we must trumpet it to the world that this is not the right kind of activity for any great power."

The question of how to respond to the initial Soviet increases in military aid shipments was discussed sometime in the spring by an interdepartmental group in the Ford Administration, another source said, and the only official who favored direct United States involvement was Secretary Kissinger.

"Kissinger in effect told Davis," an official said, "that he wasn't giving him the results he wanted."

A number of State Department officials and other sources expressed anger at Mr. Kissinger's decision to recommend direct United States involvement in Angola. "He was given the best advice there was and it didn't fit what he wanted to do," one official said. "He wanted to face off the Russians right there—in Angola."

THE FIRST BIG MOVE

Officials said that the first significant decision on Angolan policy was made in the spring, when the Administration authorized the C.I.A. to supply about $300,000 in military arms and aid to the National Union for the Total Liberation of Angola, led by Jonas Savumbi. Mr. Savumbi had been receiving some military aid from China for years but by early this year, the sources said, he was actively seeking funds from other nations in Africa as well as from the United States.

The funds were authorized after the C.I.A. formally began reporting the increases in Soviet military aid to the Popular Movement. The agency, it was said, led by Mr. Colby and James Pott, the C.I.A.'s director of African affairs, urged the United States to respond by increasing its involvement.

The C.I.A. also has been aiding the National Front, headed by Holden Roberto,

since the early 1960's, much of that help being funneled through neighboring Zaire, headed by President Mobutu Sese Seko.

One official recalled that Mr. Davis argued in the spring that "once you put Savimbi in the game and once you continue to help Roberto through Zaire, that's a signal to the Russians that we're going to face them off."

"A little bit of Soviet stuff had been going in all year," said an official with access to intelligence about American involvement in Angola. Larger Soviet shipments did not begin, this official said, until after the United States decided to help supply Mr. Savimbi and further decided, at a formal meeting of the "40 committee" in July, to ship millions of dollars worth of supplies to Angola.

The "40 committee" is a four-man subcommittee of the National Security council with a responsibility for approving all proposals for covert intelligence activities carried out by this country abroad. Mr. Kissinger is the committee's head, and the other members are Mr. Colby, William Clement, Deputy Secretary of Defense, and Gen. George S. Brown, Chairman of the Joint Chiefs of Staff.

"IT WON'T WORK * * *"

A number of sources noted that Mr. Davis, in a steady stream of memoranda sent to Mr. Kissinger and others this summer, cited three main arguments against increased United States involvement in Angola.

"First of all," said an official directly involved, "Davis told them it won't work. Neither Savimbi or Roberto are good fighters—in fact, they couldn't fight their way out of a paper bag. It's the wrong game and the players we got are losers."

Secondly, the official quoted Mr. Davis as having argued further arguing that when the United States' efforts ended in failure, that failure inevitably would be extremely damaging to the two leading African moderates who are American supporters, Presidents Mobutu of Zaire and Kenneth D. Kaunda of Zambia.

Finally, the official said, Mr. Davis argued repeatedly that the United States would end up with racist South Africa as its only African ally.

"For years," the official added, "South Africa has pushed the line that the black liberation movements were arms of Communism. Resisting that argument has always been sensible African policy" for the United States. "Now, of course," he said, "we and South Africa are allies."

As many as 1,000 white South Africans * * * and fighting against the Popular Movement.

UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, I have been requested by several Senators that there be a closed session of the Senate to discuss the questions of Angola. This is to serve notice that at 9:15 on Wednesday morning next, a closed session will start.

Do the Senators have any idea how long they would like to have that closed session last?

Mr. TUNNEY. I think that 2 hours, at least, would be needed on the subject.

Mr. MANSFIELD. Mr. President, for the information of the Senate, it will be a session for not to exceed 2 hours. I ask unanimous consent that that be the case.

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

Mr. McCLELLAN. Mr. President, reserving the right to object——

The PRESIDING OFFICER. The Chair withdraws the ruling.

Mr. McCLELLAN. I have no intention of objecting, but for clarification, is there to be controlled time?

Mr. MANSFIELD. Yes, indeed. The time will be controlled by the distinguished chairman of the committee, the manager of the bill, the senior Senator from Arkansas (Mr. McCLELLAN), and the Senator from California (Mr. TUNNEY).

The PRESIDING OFFICER. Is there objection?

Mr. CASE. Reserving the right to object, Mr. President. I just want to know what we are agreeing to.

Mr. MANSFIELD. That we go into closed session at 9:15 on Wednesday morning next and that the time for the closed session not extend beyond 11:15 a.m.

Mr. CASE. This would be on what legislation?

Mr. MANSFIELD. Angola—in relation to the conference report on the defense appropriation bill.

Mr. McCLELLAN. What they really intend to go into is the question of intelligence information, whether or not to make it public. That is really what is involved—whether everything regarding Angola be made public, regarding the funds that may be in the bill.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the time be extended.

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

Mr. McCLELLAN. It covers the entire question of intelligence as it affects appropriations. That is what is involved.

Mr. MANSFIELD. Mr. President, I understand that the agreement for a closed session is automatic.

Mr. GOLDWATER. Mr. President, reserving the right to object——

The PRESIDING OFFICER. The Chair notes the further reservation.

Mr. GOLDWATER. Mr. President, reserving the right to object—and I will not object—I merely want to ask a question of the majority leader. No amendments can be offered to the conference report. Is that correct?

Mr. MANSFIELD. That is correct.

Mr. GOLDWATER. We vote the conference report up or down. Nobody can offer an amendment. Is that correct?

Mr. TUNNEY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. TUNNEY. A motion to recommit would be in order, would it not?

Mr. MANSFIELD. Yes; it would.

The PRESIDING OFFICER. Only if the Senate were acting first.

Mr. CASE. I just want to be sure, Mr. President, on what this time is to be used.

The PRESIDING OFFICER. The House already has agreed to the conference report, so a motion to recommit would not be in order.

Mr. TUNNEY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. TUNNEY. But it would be in order to offer an amendment, if the conference report were defeated, to send it back to conference, with instructions. Is that correct?

The PRESIDING OFFICER. There are certain amendments in disagreement on which an amendment could be in order.

Mr. TUNNEY. It would be appropriate to offer instructions to the conferees?

The PRESIDING OFFICER. That would be possible.

Mr. McCLELLAN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLELLAN. That would apply only to those amendments in disagreement, would it not?

The PRESIDING OFFICER. The Senator is correct.

If the Senate rejected the entire conference report, the entire matter could go back to conference.

Mr. CASE. Mr. President, reserving the right to object, if that time could be extended to 12 o'clock, I think it would be a good idea, because this is a rather important matter.

Mr. MANSFIELD. I know it is an important matter. I am keeping in mind that we are trying to get out by Friday next, and we have a very difficult schedule. However, I ask unanimous consent that beginning at 9:30 and not extending beyond 12 o'clock, there be a closed session of the Senate.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. Mr. President, reserving the right to object, with a vote thereat. Is that correct?

Mr. MANSFIELD. If a vote is requested, yes. If a vote is requested, it will occur at that time.

Mr. GRIFFIN. Whether it is a rollcall vote or not, there will be a vote on the conference report.

Mr. MANSFIELD. Yes—at that time.

Mr. TUNNEY. Mr. President, there is no unanimous-consent request, is there, on time for a vote?

Mr. MANSFIELD. No, but I shall make that request now, because I think at the end of 2½ hours, we should be ready for a vote, one way or the other.

Mr. TUNNEY. Could that request be made after we finish the secret session?

Mr. MANSFIELD. The Senator is aware of the schedule which confronts the Senate this week. We have a common situs picketing conference report. We have this conference report. We have the emergency energy conference report. We have the tax matter. It would be my hope that the Senator would not push his luck too far and would agree to vote at 12:30, because no minds will be changed after that time.

Mr. TUNNEY. I would like to have an opportunity to discuss the unanimous-consent request with the majority leader before I would concur.

Mr. MANSFIELD. Mr. President, I withdraw my request, except for the 2½ hours.

The PRESIDING OFFICER. Is there objection?

Mr. McCLELLAN. Mr. President, reserving the right to object, do I correctly

understand that the request for time carries with it a request for control of the time as suggested by the distinguished majority leader?

Mr. MANSFIELD. That is correct—between the Senator from Arkansas, the manager of the bill, and the Senator from California (Mr. TUNNEY).

Mr. McCLELLAN. Is it from 9:30 until 12?

Mr. MANSFIELD. Not to exceed 12.

Mr. TUNNEY. Will the Senator from Montana indicate whether he feels that one-half hour in open session after the secret session would be appropriate? If so, I would agree to a unanimous-consent request that the vote on the conference report occur one-half hour after the secret session, assuming that that half hour was used for consideration of the conference report.

Mr. MANSFIELD. Will the Senator from California allow the Senator from Montana to make a counterproposal?

I ask unanimous consent that the closed session begin at 9:30 and end no later than 11:30 and that the vote occur at 12 o'clock.

Mr. TUNNEY. Yes, I concur.

Mr. MANSFIELD. I make that request.

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

Mr. MANSFIELD. I thank the Senator.

EXECUTIVE SESSION

CONVENTION WITH THE UNION OF SOVIET SOCIALIST REPUBLICS ON MATTERS OF TAXATION

The PRESIDING OFFICER. Under the previous order, the hour of 1 p.m. having arrived, as extended by unanimous consent, the Senate will now go into executive session and proceed to vote on Executive T (93d Cong., 1st sess.), Convention with the Union of Soviet Socialist Republics on matters of taxation.

The resolution of ratification will be read for the information of the Senate.

The resolution of ratification was read, as follows:

Resolved, (Two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention between the United States of America and the Union of Soviet Socialist Republics on Matters of Taxation, with related Letters, signed at Washington on June 20, 1973.

ADDITIONAL STATEMENT SUBMITTED ON TREATY

Mr. HELMS. Mr. President, I do not believe that this is the time to approve a new treaty with the Soviet Union, no matter how innocent the particular matter may seem to be on the surface. One by one such agreements begin to change our whole configuration of relationships with the Soviet Union; yet at the present time there is a growing feeling of unease in those relationships.

We see in Angola, for instance, the first use of Soviet troops outside of Soviet continental interests, despite the spirit that was supposed to be manifest in the Helsinki agreement. We are in the middle of a controversy over Soviet adherence to the SALT I agreement, with claims and counterclaims as to whether the Soviets have violated it or not. In both cases, there are those who argue that the Soviets have not committed violations of the actual letter of the agreement; but instead, with the peculiarly legalistic attitude that they have demonstrated in the past, they blandly ignored the purpose of the agreement even while supposedly sticking to the letter.

So here we have yet one more agreement. There is only one purpose for this convention: It is meant to increase U.S. trade with the Soviet Union. Assistant Secretary Walker, in his testimony on behalf of the convention, says that the purpose is "to achieve tax neutrality with respect to the flow of capital." Is there anyone in this Chamber who believes that it will increase the flow of capital from the Soviet Union to the United States?

Of course not. If there is any flow of capital, it will be from the United States to the Soviet Union.

Moreover, the treaty in article VIII provides that the Convention "shall apply only to the taxation of income from activity conducted in a contracting State in accordance with the laws and regulations in force in such Contracting State." Do we fully understand Soviet laws as they apply to business? Of course we do not. The Soviet system is set up to make free enterprise impossible, so we cannot expect to find Soviet laws that are very hospitable to our way of doing business. How do we know that the "neutrality" or reciprocity supposedly guaranteed in this Convention is not nullified by provisions of Soviet law?

The basic issue is that the Soviet system and the United States system are incompatible. Despite the evident intent to accommodate the treaty to the special conditions in the Soviet Union, we do not really know the impact. Even Mr. Walker admitted that—

It would be extremely difficult to determine arm's length prices between two units of government enterprises and to obtain the necessary access to the financial accounts of the enterprise.

Indeed, there is no comparison to a U.S. company setting up an office in Moscow to deal with state trading companies, and the state trading companies setting up an office in New York. Behind one, you have a normal business enterprise; behind the other, you have the whole resources of a hostile government.

Mr. President, I believe that the time has come to vote against such one-sided treaties in principle, and to reassert the primary interests of the United States.

Mr. THURMOND. Mr. President, I favor foreign trade, but the Soviet Union is even now trying to spread communism into Angola. Russian soldiers are there accompanied by combat troops from the Soviet satellite Cuba.

Massive arms shipments have been sent to Angola by the Soviet Union. The purpose of the Russians is clear. That purpose is to add Angola to the Communist bloc. This agreement is meant to increase our trade with the Soviet Union.

Until the Soviet Union stops trying to take over other countries by force, I not only will oppose this treaty, but I question all commercial intercourse with the Russians.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the resolution of ratification on Executive T, 92d Congress, first session, Convention with the Union of Soviet Socialist Republics on matters of taxation?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from North Dakota (Mr. BURDICK), the Senator from Florida (Mr. CHILES), the Senator from New Hampshire (Mr. DURKIN), the Senator from Michigan (Mr. HART), the Senator from Washington (Mr. JACKSON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

I further announce that the Senator from Georgia (Mr. NUNN) is absent on official business.

I also announce that the Senator from Alaska (Mr. GRAVEL) is absent because of illness.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON), the Senator from North Dakota (Mr. BURDICK), and the Senator from Missouri (Mr. SYMINGTON) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from New York (Mr. BUCKLEY) and the Senator from Arizona (Mr. FANNIN) are necessarily absent.

I also announce that the Senator from Tennessee (Mr. BROCK) is absent on official business.

The result was announced—yeas 82, nays 4, as follows:

[Rollcall Vote No. 590 Ex.]

YEAS—82

Abourezk	Griffin	Morgan
Allen	Hansen	Moss
Baker	Hart, Gary	Muskie
Bartlett	Hartke	Nelson
Beall	Haskell	Packwood
Bellmon	Hatfield	Pastore
Bentsen	Hathaway	Pearson
Biden	Hollings	Pell
Brooke	Hruska	Percy
Bumpers	Huddleston	Proxmire
Byrd, Harry F., Jr.	Humphrey	Randolph
	Inouye	Ribicoff
Cannon	Javits	Roth
Case	Johnston	Schweiker
Church	Laxalt	Scott, Hugh
Clark	Leahy	Scott, William L.
Cranston	Long	
Culver	Magnuson	Stafford
Curtis	Mansfield	Stennis
Dole	Mathias	Stevens
Domenici	McClellan	Stevenson
Eagleton	McClure	Taft
Eastland	McGee	Talmadge
Fong	McGovern	Tower
Ford	McIntyre	Tunney
Garn	Metcalf	Weicker
Glenn	Mondale	Williams
Goldwater	Montoya	Young

NAYS—4

Byrd, Robert C.	Helms	Thurmond
	Stone	

NOT VOTING—14

Bayh	Durkin	Kennedy
Brock	Fannin	Nunn
Buckley	Gravel	Sparkman
Burdick	Hart, Philip A.	Symington
Chiles	Jackson	

The PRESIDING OFFICER. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will return to legislative session.

The Senate resumed the consideration of legislative business.

REVENUE ADJUSTMENT ACT OF 1975

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of H.R. 5559, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5559) to make changes in certain income tax provisions of the Internal Revenue Code of 1954, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Finance with an amendment to strike out all of the enacting clause and insert the following:

This Act may be cited as the "Revenue Adjustment Act of 1975".

SEC. 2. INDIVIDUAL INCOME TAX REDUCTIONS.

(a) LOW INCOME ALLOWANCE.—

(1) INCREASE.—Subsection (c) of section 141 of the Internal Revenue Code of 1954 (relating to low-income allowance) is amended to read as follows:

"(c) LOW INCOME ALLOWANCE.—

"(1) IN GENERAL.—The low income allowance is—

"(A) $2,200 in the case of—

"(i) a joint return under section 6013, or

"(ii) a surviving spouse (as defined in section 2(a)),

"(B) $1,800 in the case of an individual who is not married and who is not a surviving spouse (as so defined), or

"(C) $1,100 in the case of a married individual filing a separate return.

"(2) APPLICATION OF 6-MONTH RULE.—Notwithstanding the provisions of paragraph (1), the following amounts shall be substituted for the amount set forth in paragraph (1)—

"(A) '$1,750' for '$2,200' in subparagraph (A),

"(B) '$1,550' for '$1,800' in subparagraph (B), and

"(C) '$875' for '$1,100' in subparagraph (C).".

(2) CHANGE IN FILING REQUIREMENTS TO REFLECT INCREASE IN LOW INCOME ALLOWANCE.—Paragraph (1)(A) of section 6012(a) of such Code (relating to persons required to make returns of income) is amended—

(A) by striking out "$2,350" in clause (i) of such paragraph and inserting in lieu thereof "$2,550";

(B) by striking out "$2,650" in clause (ii) of such paragraph and inserting in lieu thereof "$2,950"; and

(C) by striking out "$3,400" in clause (iii) of such paragraph and inserting in lieu thereof "$3,700".

(b) PERCENTAGE STANDARD DEDUCTION.—

(1) Increase.—Subsection (b) of section 141 of such Code (relating to percentage standard deduction) is amended to read as follows:

"(b) PERCENTAGE STANDARD DEDUCTION.—

"(1) GENERAL RULE.—The percentage standard deduction is an amount equal to 16 percent of adjusted gross income but not to exceed—

"(A) $2,900 in the case of—

"(i) a joint return under section 6013, or

"(ii) a surviving spouse (as defined in section 2(a)),

"(B) $2,500 in the case of an individual who is not married and who is not a surviving spouse (as so defined), or

"(C) $1,450 in the case of a married individual filing a separate return.

"(2) APPLICATION OF 6-MONTH RULE.—Notwithstanding the provisions of paragraph (1) of this subsection, the following amounts shall be substituted for the amounts set forth in paragraph (1)—

"(A) '$2,450' for '$2,900' in subparagraph (A),

"(B) '$2,250' for '$2,500' in subparagraph (B), and

"(C) '$1,225' for '$1,450' in subparagraph (C).".

(2) CONFORMING AMENDMENTS.—Section 3402(m) of such Code (relating to withholding allowances based on itemized deductions) is amended—

(A) by striking out "$2,600" in paragraph (1)(B) and inserting in lieu thereof "$2,900", and

(B) by striking out "$2,300" in such paragraph and inserting in lieu thereof "$2,500".

(c) CREDIT FOR PERSONAL EXEMPTION.—Section 42(a) of such Code (relating to credit for personal exemption) is amended to read as follows:

"(a) CREDIT ALLOWED.—

"(1) IN GENERAL.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year the amount of $45, multiplied by the number of exemptions to which the taxpayer is entitled for the taxable year under subsections (b) and (e) of section 151.

"(2) APPLICATION OF 6-MONTH RULE.—Notwithstanding the provisions of paragraph (1) of this subsection, the amount '$22.50' shall be substituted for the amount '$45' where it appears in that paragraph.".

(d) EARNED INCOME CREDIT.—Subsections (a) and (b) of section 43 of such Code (relating to earned income credit) are amended to read as follows:

"(a) ALLOWANCE OF CREDIT.—

"(1) GENERAL RULE.—In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 10 percent of so much of the earned income for the taxable year as does not exceed $4,000.

"(2) APPLICATION OF 6-MONTH RULE.—Notwithstanding the provisions of paragraph (1), the term '5 percent' shall be substituted for the term '10 percent' where is appears in that paragraph.".

"(b) LIMITATION.—

"(1) GENERAL RULE.—The amount of the credit allowable to a taxpayer under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount equal to 10 percent of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds $4,000.

"(2) APPLICATION OF 6-MONTH RULE.—Notwithstanding the provisions of paragraph (1), the term '5 percent' shall be substituted for the term '10 percent' where it appears in that paragraph.".

(e) EXTENSION OF CERTAIN LOW-INCOME ALLOWANCE, PERCENTAGE STANDARD DEDUCTION, AND TAX CREDIT PROVISIONS.—The last sentence of section 209(a) of the Tax Reduction Act of 1975 is amended to read as follows: "The amendments made by section 201(a) and 202(a) shall cease to apply to taxable years ending after December 31, 1975; those made by sections 201(b), 201(c), and 203 shall cease to apply to taxable years ending after December 31, 1976.".

(f) EXTENSION OF EARNED INCOME CREDIT.—Section 209(b) of the Tax Reduction Act of 1975 (relating to effective date for section 204) is amended by striking out "January 1, 1976," and inserting in lieu thereof "January 1, 1977.".

(g) EFFECTIVE DATE.—The amendments made by this section apply to taxable years ending after December 31, 1975, and before January 1, 1977.

SEC. 3. CORPORATE TAX RATES AND SURTAX EXEMPTION.

(a) CORPORATE NORMAL TAX.—Section 11(b) of the Internal Revenue Code of 1954 (relating to corporate normal tax) is amended to read as follows:

"(b) NORMAL TAX.—

"(1) GENERAL RULE.—The normal tax is equal to—

"(A) in the case of a taxable year ending after December 31, 1976, 22 percent of the taxable income, and

"(B) in the case of a taxable year ending after December 31, 1974, and before January 1, 1977, the sum of—

"(i) 20 percent of so much of the taxable income as does not exceed $25,000, plus

"(ii) 22 percent of so much of the taxable income as exceeds $25,000.

"(2) SIX-MONTH APPLICATION OF GENERAL RULE.—

"(A) CALENDAR YEAR TAXPAYERS.— Notwithstanding the provisions of paragraph (1), in the case of a taxpayer who has as his taxable year the calendar year 1976, the normal tax for such taxable year is equal to the sum of—

"(i) 21 percent of so much of the taxable income as does not exceed $25,000, plus

"(ii) 22 percent of so much of the taxable income as exceeds $25,000.

"(B) FISCAL YEAR TAXPAYERS.—Notwithstanding the provisions of paragraph (1), in the case of a taxpayer whose taxable year is not the calendar year, effective on July 1, 1976, paragraph (1) shall cease to apply and the normal tax shall be 22 percent.".

(b) CORPORATE SURTAX.—Section 11(c) of such Code (relating to surtax) is amended to read as follows:

"(c) SURTAX.—

"(1) GENERAL RULE.—The surtax is 26 percent of the amount by which the taxable income exceeds the surtax exemption for the taxable year.

"(2) SPECIAL RULE FOR 1976 FOR CALENDAR YEAR TAXPAYERS.—Notwithstanding the provisions of paragraph (1), in the case of a taxpayer to whom this section applies who has as his taxable year the calendar year 1976, the surtax for such taxable year is—

"(A) 13 percent of the amount by which the taxable income exceeds the $25,000 surtax exemption (as in effect under subsection (d)(2)) but does not exceed $50,000, plus

"(B) 26 percent of the amount by which the taxable income exceeds $50,000.".

(c) SURTAX EXEMPTION.—Section 11(d) of such Code (relating to surtax exemption) is amended to read as follows:

"(d) SURTAX EXEMPTION.—

"(1) GENERAL RULE.—For purposes of this subtitle, the surtax exemption for any taxable year is $50,000, except that, with respect to a corpration to which section 1561 or 1564 (relating to surtax exemptions in case of certain controlled corporations) applies for the taxable year, the surtax exemption for the taxable year is the amount determined under such section.

"(2) SIX-MONTH APPLICATION OF GENERAL RULE.—Notwithstanding the provisions of paragraph (1)—

"(A) CALENDAR YEAR TAXPAYERS.—In the case of a taxpayer who has as his taxable year the calendar year 1976, the provisions of paragraph (1) shall be applied for such taxable year by substituting the amount '$25,000' for the amount '$50,000' appearing therein.

"(B) FISCAL YEAR TAXPAYERS.—In the case of a taxpayer whose taxable year is not the calendar year, effective on July 1, 1976, paragraph (1) shall be applied by substituting the amount '$25,000' for the amount '$50,000' appearing therein, and such substitution shall be treated, for purposes of section 21, as a change in a rate of tax.".

(d) TECHNICAL AND CONFORMING CHANGES.—

(1) Sections 1561(a) of such Code (relating to limitations on certain multiple tax benefits in the case of certain controlled corporations), and section 962(c) of such Code (relating to surtax exemption for individuals electing to be subject to tax at corporate rates) as such sections are in effect for taxable years ending after December 31, 1975, is amended by striking out "$25,000" in paragraph (1).

(2) Section 21(f) of such Code (relating to increase in surtax exemption) is amended—

(A) by striking out "INCREASE" in the caption and inserting "CHANGE" in lieu thereof, and

(B) by inserting after "Tax Reduction Act of 1975" the following: "and the change made by section 3(c) of the Revenue Adjustment Act of 1975".

(e) EFFECTIVE DATES.—The amendments made by subsections (b), (c), and (d) apply to taxable years beginning after December 31, 1975. The amendment made by subsection (c) ceases to apply for taxable years beginning after December 31, 1976.

SEC. 4. WITHHOLDING; ESTIMATED TAX PAYMENTS.

(a) WITHHOLDING.—

(1) IN GENERAL.—Section 3402(a) of the Internal Revenue Code of 1954 (relating to income tax collected at source) as amended by section 205 of the Tax Reduction Act of 1975, is amended by inserting after the second sentence thereof the following: "The tables so prescribed with respect to wages paid after December 31, 1975, and before July 1, 1976, shall be the same as the tables prescribed under this subsection which were in effect on December 10, 1975.".

(2) TECHNICAL AMENDMENT.—Section 209 (c) of the Tax Reduction Act of 1975 is amended by striking out "January 1, 1976" and inserting in lieu thereof "July 1, 1976".

(b) ESTIMATED TAX PAYMENTS BY INDIVIDUALS.—Section 6153 of such Code (relating to installmnt payments of estimated income tax by individuals) is amended by adding at the end thereof the following new subsection:

"(g) SIX-MONTH APPLICATION OF REVENUE ADJUSTMENT ACT OF 1975 CHANGES.—In the case of a taxpayer who has as his taxable year the calendar year 1976, the amount of any installment the payment of which is required to be made after December 31, 1975, and before July 31, 1976, may be computed without regard to section 42(a)(2), 43(a)(2), 43(b)(2), 151(b)(2), or 154(c)(2).".

(c) ESTIMATED TAX PAYMENTS BY CORPORATIONS.—Section 6154 of such Code (relating to installment payments of estimated income tax by corporations) is amended by adding at the end thereof the following new subsection:

"(h) SIX-MONTH APPLICATION OF REVENUE ADJUSTMENT ACT OF 1975 CHANGES.—In the case of a corporation which has as its taxable year the calendar year 1976, the amount of any installment the payment of which is required to be made after December 31, 1975, and before July 31, 1976, may be computed without regard to sections 11(b)(2), 11(c)(2), and 11(d)(2).".

SEC. 5. ROLLING STOCK.

(a) EXCLUSION FROM INCOME.—Section 883(a) of the Internal Revenue Code of 1954 is hereby amended by adding at the end thereof the following new paragraph:

"(3) RAILROAD ROLLING STOCK OF FOREIGN CORPORATIONS.—Earnings derived from payments by a common carrier for the use on a temporary basis (not expected to exceed a total of 90 days in any taxable year) of railroad rolling stock owned by a corporation of a foreign country which grants an equivalent exemption to corporations organized in the United States."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments made after November 18, 1974.

Mr. LONG. Mr. President, I ask unanimous consent that during the consideration of this measure the following staff members be granted privilege of the floor. From the staff of the Committee on Finance, Michael Stern, Bob Willan, Bill Morris, Don Moorehead, George Pritts, and Bill Galvin.

From the staff of the Joint Committee on Internal Revenue Taxation, Larry Woodworth, Bob Shapiro, Jim Wetzler, Mike Bird, and Paul Oosterhuis.

From Senator HARTKE's staff, Don Kiefer.

If there are other requests, I will be glad to make them.

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

Mr. CURTIS. Mr. President, I ask unanimous consent that the following staff members may remain on the floor until action on this measure is completed: Donald V. Moorehead, George Pritts, and Vashti Brandenberg.

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

Mr. HANSEN. Mr. President, I ask unanimous consent that Bill Corbett be granted privilege of the floor during consideration of this matter.

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

Mr. GLENN. Mr. President, I ask unanimous consent that Lyle Morris and Leonard Bickwit be granted privilege of the floor during this matter.

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

Mr. JAVITS. Mr. President, I ask unanimous consent that Frank Ballance be granted privilege of the floor during this matter.

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

Mr. DOMENICI. Mr. President, I ask unanimous consent that Franklin Jones and Paul Oosterhuis of the joint staff be granted privilege of the floor during this matter.

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

Mr. LONG. Mr. President, I ask unanimous consent that the following Finance Committee staff members be granted privilege of the floor. Michael Stern, Jay Constantine, Jim Mongan, Joe Humphreys, Bill Galvin, Don Moorehead, George Pritts, and John Kern, temporarily detailed to the staff of the Senate Committee on Finance.

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

Mr. MANSFIELD. Will the Senator yield for a minute?

Mr. LONG. Yes.

ORDER FOR RECESS UNTIL 9 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 9 a.m. tomorrow morning.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Louisiana.

REVENUE ADJUSTMENT ACT OF 1975

The Senate continued with the consideration of the bill (H.R. 5559) to make changes in certain income tax provisions of the Internal Revenue Code of 1954, and for other purposes.

Mr. LONG. Mr. President, the second budget resolution approved by both Houses of Congress directs the Committee on Finance to submit to the Senate a bill decreasing Federal revenues by approximately $6.4 billion. This is part of what is known in the Congressional Budget Act as the "reconciliation process." The bill now before the Senate, H.R. 5559 as reported by the Committee on Finance, is the reconciliation bill in response to the second budget resolution.

The PRESIDING OFFICER. The Chair states that there will be 20 hours for debate on the bill. Two hours on each amendment in the first degree, 1 hour on each amendment in the second degree, debatable motions and appeals, and so forth. Amendments are required to be germane except for the waiver as part of the previous order.

Who yields time?

Mr. LONG. Mr. President, how much time does the law spell out, how the time is to be divided?

The PRESIDING OFFICER. The order does not spell out the control of the time. It states the limit of the 20 hours.

Mr. LONG. Mr. President, I ask unanimous consent that time on the bill be under control of the manager, of the chairman of the committee and the ranking minority member (Mr. CURTIS).

The PRESIDING OFFICER. Is there objection?

Mr. CURTIS. Reserving the right to object—and I shall not object—may we have a clarification at this time as to what unanimous consent has already been entered into in reference to this legislation?

The PRESIDING OFFICER. The Chair just recited that amendments are required to be germane, that there are 20 hours, except for the ceiling amendment, imposing a ceiling on expenditures.

Mr. CURTIS. Twenty hours?

The PRESIDING OFFICER. Which would come from the minority side, and there are 20 hours on the bill.

Mr. CURTIS. No objection.

Mr. LONG. The 20 hours is spelled out by the law in view of the fact that this is part of the reconciliation process under the budget law.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Louisiana is recognized.

Who yields time?

Mr. LONG. Mr. President, I yield myself sufficient time as I require for the point.

Mr. President, this bill seeks to continue the present rate of withholding taxes and generally it seeks to continue the tax cut that was voted earlier this year.

It works out to a reduction in withholding and other taxes of about $1 billion a month, the purpose of it being to maintain employment, to try as best we can to stimulate recovery during these troubled economic times.

I regret, Mr. President, that we have not been able to come to terms with the administration with regard to its suggestion that we should fix a precise figure of budget spending for 1977 fiscal year and that thereafter each dollar of tax cut should be accompanied by a dollar of reduction of spending.

Mr. President, I for one bent over backwards trying to reach a compromise with President Ford on a bill that will extend the 1975 tax cuts and prevent a $16 billion tax increase on New Year's Day. We realize how badly the President wants to get expenditures in the fiscal year 1977 under control. And we share that general objective. However, Congress has just adopted a new budget procedure which involves our examining the budget the President will send up to us in January and then we will make our own determination both as to the total expenditures and division of the total among the various functional categories. I believe the feeling is quite general in the Senate that, if we were to adopt an arbitrary ceiling without generally knowing its impact on the different categories of Government expenditures, we might well not be able to keep such a ceiling once we knew its effect. This would undermine our new budgetary control procedure and might do permanent, long-term harm to the cause of budgetary control.

We on the Finance Committee tried to help the President by providing an opportunity to control fiscal year 1977 spending without destroying the new budgetary procedure. We did this by extending the tax cuts only through the first half of 1976. This is only about a month beyond the time the Congress by law is required to set a ceiling on expenditures for 1977. The threat of not permitting the tax cut to be extended beyond June 30 should be all the leverage the President needs to hold 1977 expenditures to a reasonable level. I, for one, believe, in any event, he will find the Congress is as interested in holding down spending as he is.

I have also said that, once we agree upon a congressional budget level, we will endeavor to stay by the principle that from then on a $1 cut in taxes should be accompanied by a $1 reduction in projected Federal spending. I also want to say that I am willing to go another mile with the President. By this I mean I will certainly be glad to consider any other proposal to limit fiscal year 1977 spending that does not subvert the new congressional budgetary process.

I hope I have made it clear that I am not looking for confrontation with the President on this issue and I believe that most of the members of my party agree on this position. But it is essential that we continue the existing level of withholding and not increase taxes on January 1.

The economic situation is still extremely serious. The economy declined steadily for 18 months between October 1973 and March 1975. Although we have recovered some of this lost ground in the past few months, the level of economic activity remains very low. Over 7 million Americans are unemployed; the level of output is more than 4 percent below its peak in late 1973, and the gap betweeen what the economy is producing and what it is capable of producing is about $190 billion. This gap, this lost income, is about the size of the entire British economy.

Under these circumstances, it is essential that we continue the economic stimulous provided by the 1975 tax cuts. That is what the Finance Committee does in its amendment. The amendment provides no new stimulus to the economy; it only continues the existing stimulus for 6 months. Not to do this would be a severe blow to a fragile economic recovery.

To analyze the effects of letting taxes go up next year, the committee used a study by a subsidiary of Chase Manhattan Bank. That study is summarized in a table in the committee report. It predicts that not extending the tax cuts would lower national income by $25 billion by the middle of 1977. This would increase unemployment by 500,000 workers. Industrial production would fall by 2 percent. According to the Chase study, the rate of inflation will not increase in 1976 because of this tax reduction and will increase by no more than two-tenths of 1 percent in 1977 as a result of this action.

The prospect of this additional unemployment and lost production would be a cruel Christmas present to the American people, particularly at a time when 7 million Americans are already unemployed and the incomes of those who still have their jobs have been seriously eroded by inflation.

Like most Americans, I am deeply concerned with the high level of Federal Government spending. Both the Congress and the executive branch will have to come to grips with this vital issue.

The most effective way to limit Federal spending is through the congressional budget control procedure set up at the beginning of this year. This process enables Congress to determine revenue and spending totals in an orderly way and to establish priorities between different types of expenditures. Imposing an arbitrary ceiling on spending without congress even knowing its general composition is likely to undermine the whole effort to establish an orderly way of controlling spending.

To make a reasonable choice between two possible spending levels, Congress must have information about which expenditures are to be cut if the lower level is chosen. Also, it needs information about the level of revenues. This information will be available next year after the President submits his budget and it is reviewed by the budget committees, but it is not available now.

A flat spending ceiling enacted now would have no credibility since it might have to be changed drastically as more information becomes available. However, as I have already said, I am not opposed once Congress determines the appropriate level of spending and revenues, to hold to that level of spending and revenues if that is what Congress wants, unless economic conditions are such as to require a change in positions. I should think the President might also want the right to change his position if the economic situation changes.

Last week Congress passed a budget resolution for fiscal year 1976 that sets a spending ceiling and a revenue floor for that period. That resolution passed the Senate by a vote of 74 to 19. The revenue floor is consistent with the tax cuts provided in this bill, which apply only to the rest of this fiscal year and reduce receipts by $6.1 billion in that period. The way I see it this bill meets the spirit of President Ford's proposal that tax reduction be tied to a spending ceiling. The spending ceiling, however, is for the period to which the tax cuts apply, not some future period.

Under the regular budget procedures, the President will submit his budget for fiscal year 1977 in January 1976. This document will be examined by the Congress and by May 15, 1976, Congress will set a spending ceiling for fiscal year 1977.

The tax cuts provided by the Finance Committee amendment extend only to a period 6 weeks after that date. As a result, the Congress will be able to consider the question of tax reduction for the last half of 1976—and possibly for future years—after the spending ceiling for fiscal year 1977 has been voted. Any Senator who is dissatisfied with the spending ceiling can vote against any possible further extension of the tax cuts. Thus, under this amendment, the tax cuts for fiscal year 1976 are linked to the spending ceiling for that period and the question of tax reduction for fiscal year 1977 is postponed until after the spending ceiling for that period has been determined. This seems to me entirely consistent with the real heart of the President's proposals.

As I have said, however, I would be willing to go another mile with the President and tentatively accept the principle that once the spending and tax levels have been set for 1977 any further tax cuts should be matched dollar for dollar by spending cuts for that period. This is in the spirit of President Ford's proposal but it does not tie the Congress down to a specific spending ceiling. Circumstances may change and the economy may be worse than we expect in 1977 so I would not want to bind the Senate to any specific dollar figure. Also,

it is difficult to focus on a specific dollar figure because there is no exact measure of what spending levels would be in the absence of any specific cuts. For example, President Ford has referred to a spending figure for fiscal year 1977 of $423 billion from which he proposes to cut $28 billion.

However, the current services budget, which measures Government spending in the absence of any new initiatives, shows a range of outlays between $411 billion and $415 billion in fiscal year 1977. I think the honorable way to proceed in an attempt to compromise with the President is not to set a specific dollar spending ceiling but to agree to his principle that barring unforeseen circumstances, as long as he remains President we will match tax cuts for 1977 with spending cuts for that year.

In addition to stimulating the economy during a period of high unemployment, there are other reasons for extending the 1975 tax cuts into 1976. The increased standard deduction in the Finance Committee amendment will encourage individuals who file 10 million tax returns to take the standard deduction instead of itemizing their deductions. This is a major simplification of the tax system. Also, the higher standard deduction will help compensate people who use the standard deduction for inflation. The inflation has eroded the real value of the minimum and the maximum standard deductions while the value of itemized deductions has risen as prices have risen.

Most important, these tax cuts achieve an important goal of tax policy—that poor families not be asked to pay income tax. If the 1975 tax cuts are allowed to expire, the poverty level for a four-person family will be almost $1,600 higher than the income level at which such a family begins to pay income tax—the tax threshold. This means a poor four-person family could pay as much as $222 in income tax, although that family is regarded as being in poverty by Federal standards.

For a six-person family, the gap between the poverty level and the tax threshold would be almost $2,000, leading to an income tax burden of as much as $285. It is wrong to subject poor families to such taxes, especially at a time of high food and energy prices and mass unemployment. Under this amendment, the tax threshold will be raised close to or above the poverty level.

Let me turn now to an outline of the specific tax cuts in the Finance Committee amendment.

The amendment reduces tax liabilities by $8 billion for the first 6 months of 1976. If Congress subsequently votes to extend these cuts for the entire year, the full year's reduction would be $16 billion. This is the amount necessary to maintain the present level of the income tax withholding rates provided by the 1975 tax cuts we passed last March.

The 1975 Tax Reduction Act provided an increase in the standard deduction and a $30 tax credit for each taxpayer and dependent. These provisions reduced tax liability for 1975 by $8 billion. Because the act was not passed until the end of March, these cuts were not reflected in lower withheld taxes in workers' paychecks until May. As a result, the entire $8 billion reduction in tax liability was concentrated in withholding reductions over an 8-month period which worked out to a $1 billion per month in tax cuts. This cut of $8 billion in withholding in 8 months was the equivalent of a $12 billion reduction on a full year basis. Allowing for the growth in income in 1976 over 1975, a full year extension of these withholding rates in 1976, therefore, would require a cut in tax liability of about $13 billion—a little more than $1 billion per month. As a result, an extension of these withholding rates for 6 months only requires a tax reduction of $6.3 billion.

The committee decided to provide this reduction in tax liability through an increase in the standard deduction by several hundred dollars more than was done in 1975 and by an increase in the flat $30 credit available for every taxpayer and dependent to $45. Specifically, the amendment increases the minimum-standard deduction from $1,300 to $1,800 for single people and from $1,300 to $2,000 for joint returns. The Tax Reduction Act of 1975 for 1975 only increased this minimum to $1,600 for single returns and $1,900 for joint returns.

The amendment also increases the percentage standard deduction from 15 percent to 16 percent. This is the same as the increase in the 1975 act. Also, the amendment increases the maximum standard deduction from $2,000 to $2,500 for single people and to $2,900 for joint returns. The 1975 act for 1975 increased it only to $2,300 and $2,600, respectively.

These increases in the standard deduction and the $45 credit will reduce tax liability by an amount that will permit the Internal Revenue Service to continue to use for the next 6 months the same withholding tables that are now in effect and have been in effect for the last 8 months of 1975. On a full year basis, the revenue loss from these provisions would be $12.7 billion.

The amendment also extends the earned income credit that was provided in the 1975 tax cuts. This is the most innovative provision of the 1975 act. It provides more help to poor people than any other provision in the code, because it is a refundable tax credit—that is, the credit can exceed tax liability. The workers eligible for the earned income credit are the people who have been suffering from high food and energy prices and who, nevertheless, are asked to pay the social security payroll taxes. The credit on an annual basis equals 10 percent of the first $4,000 of earnings and is phased out as income rises from $4,000 to $8,000. It is available only to families with dependent children on a full year basis. The loss in revenue is $1.4 billion or $700 million for the 6-month extension provided by this bill.

These tax reductions for individuals will go mainly to low and middle income families. These are the people who need the money the most and also who are most likely to spend it and thereby stimulate the economy and create additional income for other people, including higher profits for business. Of the total tax cut for individuals, 66 percent goes to taxpayers with adjusted gross incomes below $15,000.

Finally, the committee amendment extends the small business tax cuts in the 1975 act. These provide tax relief to a crucial sector of the economy and will encourage capital formation. The corporate surtax exemption is increased from $25,000 to $50,000 and the tax rate on the first $25,000 or corporate income is reduced from 22 percent to 20 percent. On a full year basis the tax cuts total $1.9 billion or $1 billion under the 6-month extension.

As I have indicated in each case the committee amendment extends these tax cuts for 6 months. The way this is done is to provide a reduction in tax liability for the whole calendar year 1976 that is one-half as large as the full year effect of these tax cuts. However, all of this reduction in liability is to be reflected in lower withheld and estimated tax payments over the first 6 months of the year. This means that if there is no further legislation, the entire amount of the tax cuts for the calendar year 1976 will have been withheld by July 1 and it will be necessary at that time for the Internal Revenue Service to raise withholding rates back to the 1974 levels—those which prevailed before the 1975 tax cuts.

For example, the $45 credit is converted into a half-year tax cut by enacting a credit of $22.50—one-half of $45—for the whole year 1976. Similiarly, the half-year effect for the increased standard deduction is achieved by enacting one-half of the increase over the pre-1975 level that would have been enacted for a full year. For example, the percentage standard deduction is increased from 15 percent to 15.5 percent which gives half the effect of an increase to 16 percent.

The half-year extension of the earned income credit is provided by enacting for the whole year a credit at a rate of 5 percent instead of the 10 percent prevailing for 1975.

For the small business tax cuts, the amendment sets up different rules for fiscal and for calendar year taxpayers. For fiscal year taxpayers, the $50,000 surtax exemption and the 20-percent normal tax rate on the first $25,000 of income are simply extended through July 1, 1976. The existing rules for fiscal year taxpayers that require them to prorate income when tax rates change during their fiscal year will give the appropriate result. For calender year taxpayers the same result is achieved without the necessity of prorating income by lowering the normal tax rate on the first $25,000 of income from 22 percent to 21 percent for the entire year 1976 and by reducing the surtax rate on income between $25,000 and $50,000 from 26 percent to 13 percent. This gives calendar year corporations one-half of the benefit of a full year extension of the 1975 tax cuts.

These tax cuts are entirely consistent with the revenue floor in the second con-

current budget resolution. The reduction in tax receipts for fiscal year 1976 is $6.1 billion which is below the $6.4 billion provided for by the budget resolution.

The extension of the 1975 tax cuts for only a 6-month period in this amendment was really an attempt on the part of the Finance Committee to meet what we believed to be President Ford's objective, but not to extend the cuts risks economic disaster. The economy needs this stimulus. This amendment enables the Congress to provide this stimulus and at the same time to consider the question of future tax reductions after a spending ceiling for fiscal year 1977 has been established. Then we will know more about the strength of the recovery. The twin causes of limiting Government spending and of promoting economic prosperity can best be served by enacting the committee amendment.

Mr. CURTIS. Mr. President, I wish to extend my thanks to the distinguished Chairman of the Committee on Finance for his cooperation and his unfailing courtesy to all the committee, and particularly to the members of the minority party. The minority members of the Committee on Finance had ample opportunity to explore, discuss, and present a proposal relating to the President's restraint on spending. For this and many other courtesies, I express my sincere thanks to the chairman.

At this time, Mr. President, I shall confine my remarks to a discussion of what is in the committee bill. I may have more to say about whether or not there should be a tax cut and something about putting the brakes on spending at a later time.

Mr. President, as the ranking minority member of the Committee on Finance, I rise to supplement our chairman's explanation of the pending bill so that we will have a full and complete legislative history.

As my colleagues are aware, Mr. President, I opposed this legislation in committee for the simple reason that, as reported, it reduces Federal tax revenues without making provision for an equal reduction in Federal spending. We will debate this aspect of the legislation later.

As passed by the House, this bill provides for an exemption from tax for payments received by Canadian railroads for the temporary use of their rolling stock by American railroads. The exemption, which will facilitate commerce between the United States and Canada, will produce a revenue loss of less than $2½ million annually. However, the exemption will only take effect if Canada adopts a similar exemption. To my knowledge, the administration has no objection to this part of the bill.

The principle feature of this legislation, however, is to extend for 6 months to June 30, 1976, certain provisions of the Tax Reduction Act of 1975 which are due to expire at the end of this month. For individuals, this bill extends the increased standard deduction, the credit for taxpayers and dependents, and the so-called earned income credit. For businesses, this bill extends the increased corporate surtax exemption and the reduction in corporate tax rates.

When the committee met last week on this bill, there was a general agreement among those who favored continuing the tax cuts that, for individuals, we should try to prevent any increase in withholding as of January 1, 1976. Starting from the premise that withholding should remain constant, the committee made several modifications in the expiring provisions so as to achieve this result. These modifications were designed not only to keep withholding from changing, but also to keep the distribution of the tax cut extension among income groups from changing when compared to the distribution produced by the Tax Reduction Act of 1975.

Specifically, the committee increased the low-income allowance to $1,800 for single persons and to $2,200 in the case of married persons filing joint returns. The percentage standard deduction, which was increased to 16 percent in the earlier legislation, was continued at 16 percent, but the maximum standard deduction was increased to $2,500 for single persons and $2,900 in the case of married persons filing joint returns.

The $30 tax credit for the taxpayer and each dependent—which is not a refundable credit—is increased by this bill to $45. Finally, insofar as individuals are concerned, the earned income credit—which is a refundable credit—is extended. This credit is available only to families with dependent children. Essentially, it provides a credit of 10 percent of earned income up to a maximum of $4,000 so that the maximum credit is $400. The credit is reduced once an individual's income exceeds $4,000 and it is eliminated completely when an individual's income exceeds $8,000.

The extensions passed by the House are partly permanent and partly effective for calendar year 1976. In contrast, the committee's extensions apply only for 6 months. Technically, the committee bill achieves this result by providing for a tax reduction for calendar year 1976 that is one-half as large as the tax cut the committee would have selected for the whole year and by providing that the entire reduction is to be reflected in reduced withholding during the first 6 months of 1976. In this way, the committee bill provides for a 6-month extension that is both comparable to the earlier bill and within the limits of the budget resolution.

The committee bill also extends for 6 months the increase in the corporate surtax exemption and the corporate tax rate reductions. Thus, for the first 6 months of 1976, the tax rate on the first $25,000 of corporate income will be 20 percent. The rate will be 22 percent on the second $25,000 of corporate income and 48 percent on income over $50,000.

To summarize, Mr. President, the committee bill provides for a 6-month extension of the earlier tax cuts. The provisions of the bill are designed to permit employers to use the withholding tables now in effect and to assure that each individual's tax liability will be as consistent with the level of withholding as it is now. Thus, if enacted, the committee bill will maintain the status quo for the first 6 months of 1976.

Mr. President, I yield the floor.

Mr. LONG. Mr. President, in view of the fact that the budget resolution does not spell out how time is to be divided, in order to insure that it be divided equitably, I ask unanimous consent that 3 hours of the time be assigned to the manager of the bill, the Senator from Louisiana, and 3 hours of time be assigned to the ranking minority member (Mr. CURTIS), and that both of us be credited with time we have already. That will leave 14 hours for those who wish to offer amendments. I am not aware that will be needed, but in the event it should, that much time could be reserved to those managing the bill.

The PRESIDING OFFICER (Mr. STEVENS). Is there objection?

Mr. CURTIS. Mr. President, reserving the right to object, if it is not used for amendments, it could be managed the same way the 6 hours are that the Senator is speaking about.

Mr. LONG. I ask unanimous consent if it is not used for any amendments that the remainder of the time be divided as previously agreed. We ought to reserve a certain amount of time to discuss the bill itself.

Mr. CURTIS. Very well.

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

Mr. LONG. Mr. President, I ask unanimous consent that the following members of my staff have the privilege of the floor during consideration of the tax-cut bill:

Jim Guirard, Dot Turnipseed, Doug Svendson, John Steen, Bruce Feingerts, George Foote, Joan Shaffer; and also Miss M. Scott of the staff of the joint committee.

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

The PRESIDING OFFICER. Who yields time?

Mr. LONG. Mr. President, I suggest the absence of a quorum, the time to be charged equally against both sides under the 14 hours of debate on the amendments.

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. 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.

Mr. LONG. Mr. President, I ask unanimous consent that Mr. Brad Ferguson, of the staff of Senator MONDALE, be permitted the privilege of the floor during this debate.

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

Mr. LONG. Mr. President, I yield such time as he may require to the Senator from Maine (Mr. MUSKIE).

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

Mr. MUSKIE. I yield.

Mr. DOLE. Mr. President, I ask unanimous consent that Kim Wells, of my staff; Bruce Thompson, of Senator ROTH's staff, and Bob Kabel, of Senator

FANNIN'S staff, be granted the privilege of the floor during the debate and votes on H.R. 5559.

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

Mr. MUSKIE. Mr. President, I think this might be a good point, with somewhat of a lag in floor discussion, to discuss the pending legislation, as chairman of the Budget Committee. I shall speak briefly of the relationship of the tax reductions contained in H.R. 5559 and the requirements of the congressional budget process.

The second concurrent budget resolution for fiscal year 1976, which is now binding upon Congress, provides for extension of the temporary antirecession tax cuts of 1975 at a level which will maintain current tax withholding rates until the end of June 1976. The resolution mandated the Finance and Ways and Means Committees to report such legislation — specifically, legislation which would decrease fiscal year 1976 revenues by approximately $6.4 billion less than what they would be under existing law. H.R. 5559 meets this standard.

Extension through June 30, 1976, of the temporary lower withholding rates established last spring will allow adequate time for Congress carefully to develop budget targets for fiscal year 1977 including an overall spending ceiling and revenue floor. These targets will be established in the first concurrent resolution to be adopted by Congress next May. This schedule will allow Congress to establish reasoned and accurate fiscal year 1977 spending and revenue decisions at the first available opportunity under the new congressional budget discipline. If Congress determines at that time to further extend or alter the original 1975 tax reductions, legislation to implement that decision can be enacted before the June 30, 1976, expiration date.

I would also like to take this opportunity to praise the Finance Committee, and particularly its chairman, the distinguished Senator from Louisiana, Senator LONG, for so closely integrating the vital work of the Finance Committee into the framework of the new congressional budget process. Decisions affecting Government revenue levels are vital both to eliminating future budget deficits and to maintaining the momentum toward economic recovery. Thus, the close coordination of the tax writing committees with the budget process is essential if the process is to be successful.

The fact that H.R. 5559, as reported by the Finance Committee, meets the reconciliation instruction in the second concurrent budget resolution is proof of the commitment of the Finance Committee to the successful working of the new budget process.

Since H.R. 5559 constitutes the first so-called reconciliation bill required to be reported in the Senate under the Budget Act, I would also like to explain very briefly how reconciliation bills fit into the overall budget process.

In recent months, I periodically informed the Senate as to the consistency of various bills with the budget targets established by the first concurrent resolution last spring. Subsequently, the second concurrent budget resolution has just been adopted which establishes binding overall revenue, spending, and debt figures for fiscal year 1976.

The Budget Act provides a special procedure to insure rapid enactment of legislation to bring current congressional legislative programs into line with the figures established in the second concurrent resolution. This legislation—which can affect spending authority, budget authority, revenues, or the public debt limit—is known as a reconciliation bill. After enactment of the reconciliation legislation, the focus of the budget process will shift to insuring that subsequent legislation does not breach the second resolution figures.

The Budget Act provides that legislation subsequent to a reconciliation bill will be subject to a point of order if it causes either expenditures to exceed the relevant spending ceilings or revenues to fall below the revenue floor established in the second concurrent resolution.

With respect to reconciliation bills affecting either spending or revenues, the Budget Act requires they fully carry out the reconciliation instructions given in the second concurrent resolution. The act further provides that no amendment not germane to the provisions of that reconciliation bill is in order.

Therefore, in the case of the present second resolution requirement that fiscal year 1976 revenues be reduced by approximately $6.4 billion, amendments to the reconciliation bill which would further reduce revenues more than $6.4 billion or raise revenues above the $300.8 billion set as the appropriate revenue floor for fiscal year 1976 would be out of order.

The Budget Committee looks forward to working with the Finance Committee in enforcing the revenue floor and spending ceilings after this legislation is adopted.

May I make the point that this is the point at which we move beyond persuasion, which has worked very effectively and to my satisfaction, up to this point, to the discipline of a point of order.

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

Mr. MUSKIE. Yes, I yield to my good friend.

Mr. HARTKE. How does this bill, which is the pending business, become a reconciliation bill without being designated a reconciliation bill?

Mr. MUSKIE. I think that when we see an apple that looks like an apple, we call it an apple.

Mr. HARTKE. How can we say this bill is the specific reconciliation bill?

Mr. MUSKIE. If it is not that, then it is out of order, as to cutting revenues.

In the first place, I understand the manager of the bill has described it as a reconciliation bill. But beyond that, the only revenue cut that is permitted under the second concurrent resolution is a cut of $6.4 billion. If this bill is not the instrument for achieving that cut, the assumption would have to be, I guess, that a bill is coming along that would. In that case, this bill, being extraneous to that, could be held to be out of order. But I think that is a semantic discussion. We do not mandate the words. All we do is mandate the action.

When I say "we," I am talking about Congress as a whole.

Mr. HARTKE. In other words, the chairman of the Committee on the Budget has made an assumption that this is a reconciliation bill.

Mr. MUSKIE. No, may I say, the chairman of the Committee on Finance has told me it is a reconciliation bill.

Mr. HARTKE. The chairman of the Finance Committee can make a statement, but that does not make it the situation. The Committee on Finance has not acted upon this being a reconciliation bill. There is no record of its being a reconciliation bill; there is no mention of it in the report as being a reconciliation bill. Therefore, I think a point of order would not be well taken in regard to any amendment, because it is not a reconciliation bill. This is a tax reduction bill.

I can see where the Senator may assume, but it is an assumption which is not based on a fact.

Mr. MUSKIE. May I make my point as simply as possible? The second resolution does not permit tax reductions beyond $6.4 billion. If the Senator chooses to say that the proposed tax reduction does not come in a legislative vehicle that could properly be described as a reconciliation bill, still, in my judgment, he cannot escape the point that if it is not that, it is, nevertheless, out of order if it exceeds $6.4 billion.

I really do not know why the Senator is chasing his own tail.

Mr. HARTKE. I am not chasing my tail. I will point out, very simply, that in my judgment, this is a case where two Senators have gotten together and agreed that this is a reconciliation bill and there is nothing in the record to show that it is a reconciliation bill.

Mr. MUSKIE. May I say to the Senator, I have never discussed this with Senator LONG. If the Senator says I have gotten together with him, the only way in which we have gotten together is that the second concurrent resolution mandates a tax reduction of $6.4 billion and the chairman of the Committee on Finance has reported a bill which reduces revenues approximately $6.4 billion. In that open and nonconspiratorial way have the Committee on Finance and the Committee on the Budget "gotten together," in the words of the Senator.

Mr. HARTKE. Let us avoid any conspiracy, but the fact is that I think there are not very many, if any, Senators on this floor that had the idea that this bill would not be subject to amendment, other than the fact that there was a unanimous-consent agreement, which is an entirely different proposition. The germaneness rule only comes into effect if this is a reconciliation bill.

Mr. MUSKIE. Why does the Senator not test the point? He is not going to persuade me of it.

Mr. HARTKE. I am, but I am asking the Senator from Maine at this point why he contends this is a reconciliation bill when the amount of reduction is $6.1

billion, not $6.4 billion, and therefore has no direct relation. It could just as easily be $100 million.

Mr. MUSKIE. First of all, with respect to the question of what I contend, since I was not aware that the point was going to be made an issue of by the Senator, I did not realize that it had to be made the subject of contention.

Second, with respect to meeting the requirements of the second concurrent resolution, if the Senator will look at the language of that resolution, that language refers to a cut of approximtely $6.4 billion, which is supposed to continue withholding rates at their present level. That is the definitive description of what is supposed to be achieved by the implementing legislation.

Mr. HARTKE. Let me read the concurrent resolution as it is explained in the Senate report on December 9.

It directs the Ways and Means Committee and the Finance Committee to "reduce revenues by $6.4 billion." It does not say approximately.

Mr. MUSKIE. Page 1 of the conference report, which I have in my hand, says the recommended level of Federal revenues is $300.8 billion. "The House committee on Ways and Means and the Senate Committee on Finance shall submit to their respective houses legislation to decrease Federal revenues by approximately $6.4 billion," and the legislative record clearly defines the "approximately" as relating to what is necessary to continue withholding rates at their present levels.

Mr. HARTKE. I have no argument with the fact that, if this were a reconciliation bill and designated a reconciliation bill, and had been done so by the Finance Committee in response to a resolution, then the statement of the Senator from Maine would be correct. But that is not the case.

Mr. MUSKIE. I think they are still correct.

Mr. HARTKE. No, but that is not the case.

Mr. MUSKIE. Then raise the point of order, I say to the Senator. He is not going to persuade me. I do not know toward what objective the Senator is driving.

Mr. HARTKE. What was the reason for the Senator from Maine making that lengthy statement preceding this if no explanation was necessary? Why did the Senator from Maine proceed to explain it to the Senate? I sat here and listened very carefully to every word the Senator said. I have listened to the Parliamentarian explain to me how this procedure works; that in the budget law, it proceeds to direct the Budget Committee to come forward and, if a concurrent resolution is adopted which directs one committee of each body to come forward with a reconciliation bill, then that bill is not subject to any amendments which are not germane. That is, in essence, what is being contended here. That was the explanation, in shorthand, of what the Senator from Maine is contending.

The point I am making is I do not——

Mr. MUSKIE. May I say—incidentally, who has the floor, Mr. President?

The PRESIDING OFFICER (Mr. TAFT). The Senator from Maine has the floor.

Mr. MUSKIE. I should like to respond to the points as the Senator makes them. First of all, he puts me in a role of adversary on a point that had not been brought to my attention before I made my speech. I have no objection to debating it with the Senator, but to put me in the role of adversary on something that had not been brought to my attention, or a contention that had not been presented to me before I rose to speak this afternoon, is something I object to.

Second, with respect to who designates a piece of legislation as meeting the requirements of the budget act as it relates to reconciliation legislation—I assume the Senate as a whole can be the final judge of that question if the question proceeds that far. The purpose of my prepared statement today was to alert the Senate to what the parliamentary issues involved are with respect to reconciliation bills.

If the Senator wants to challenge that point as to whether this is, indeed, a reconciliation bill within the meaning of the Budget Act, that is his prerogative. I do not challenge that. But do not put me in the role of the other man in the ring, may I say to the Senator. I understand this to meet the requirements of a reconciliation bill.

We have studied it carefully. We discussed it with the Parliamentarian, and I say so to the Senate as a whole. My judgment is not infallible. If the Senator wants to challenge it, to raise a point of order in order that he may offer, I take it, an amendment to this bill contrary to the provisions of the Budget Act, then that is his prerogative, and the Senator has displayed an ability to use his prerogatives on the Senate floor, and I do not challenge his right to do so.

But when you bring an apple to the floor and it looks like an apple and the chairman of the Finance Committee says it is an apple, and under the description of the Budget Act it meets all of the elements of an apple, then I am tempted to call it an apple. But if the Senator chooses to call it an orange, that is his prerogative.

Mr. HARTKE. Let me say to the Senator from Maine he made a statement that he consulted with the Parliamentarian. It is a rather unique operation to consult with the Parliamentarian about something that has no controversy.

Mr. MUSKIE. No, we have been consulting with the Parliamentarian——

Mr. HARTKE. Let me say to the Senator from Maine——

Mr. MUSKIE. May I finish?

Mr. HARTKE. Can I ask the Senator a question? Why was the Parliamentarian consulted at all upon this matter?

Mr. MUSKIE. Well, I am about to answer that if the Senator would permit me to answer it.

Mr. HARTKE. All right.

Mr. MUSKIE. Because this is a new procedure enacted into law almost a year and a half ago, we have been consulting with the Parliamentarian for a year and a half to make sure there is a common understanding between the Parliamentarian and those of us who have responsibilities to manage the budget resolutions as to what the road rules are. It is not because we anticipate a specific challenge but because we want to know whether or not we are on track. That is the reason we are in constant consultation.

May I say to the Senator that my staff, the general counsel, interprets the act differently than the Parliamentarian does, and on a number of occasions we have had to resolve those differences in interpretation, and we think that is wise. I am not going to come to this floor blind, not knowing what the Parliamentarian may rule under unanticipated circumstances. So I try to get the best guidance I can. I do not see anything strange about that.

Mr. HARTKE. I would like to ask a question of the Senator from Louisiana, the chairman of the Committee on Finance, and I will explain to the Senator why I am concerned.

It is not a question of something being done that is wrong here. There is no question in my mind this could be the right procedure.

I certainly say if it is the right procedure it was done in a manner which was very haphazard, and certainly was not in accordance with good legislative procedure.

Mr. MUSKIE. I certainly take issue with that.

Mr. HARTKE. I am entitled to my opinion.

Mr. MUSKIE. Of course, the Senator is, and I am entitled to take issue, which I do.

Mr. HARTKE. Of course.

As to this measure, according to my information, there was only one tax cut enacted on March 29 which has been deleted from this bill. In other words, there is one tax cut, of which I was the author of the amendment, dealing with housing credits. I raised this question in the Committee on Finance, and it was rejected on a tie vote, and I was assured in the Committee on Finance that I would have a chance to raise this question again on the floor of the Senate.

Now we are in a sitution where two things have happened. I agree as far as a unanimous-consent arrangement, there is no question about the legality of such a procedure. It certainly is proper, but the procedure which is being followed under the Budget Committee procedure, I assure the Senator from Maine, is a shocking incident to practically all the Senators in this body.

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

Mr. HARTKE. Yes, I yield.

Mr. LONG. Mr. President, so far as I am concerned, if the Senator wants to have a vote on a particular amendment, and if he has it ready and would like to offer it, I will not object. It is all right with me. I would be willing to give consent to vote on it if the Senate would grant consent to vote on it.

Mr. HARTKE. I would like to get the amendment considered because it is an

amendment which, I think, has a great deal of merit, and was the only item which was deleted. It has practically no budgetary implications whatsoever for fiscal 1976. But I really think in the long run the bigger issue is the Senate ought to know that what in effect you have reinstituted here under the budgetary process are the old rules, you have instituted the closed rule system of the House of Representatives, and that is exactly what has been done here, and what you have in effect here is a bill which is operating under a closed rule. I am not talking about the unanimous-consent agreement, that is an entirely different proposition. But under the law and procedures which have been set forth here, if this is and was a reconcilation bill, if it is that, then in effect what you have instituted is the closed rule concept of the House of Representatives. I do not believe the Senate intended to do that, but that is the net effect of it.

Mr. LONG. If the Senator will yield, Mr. President, let me make this clear: Prior to the time this matter came up we had already agreed by unanimous consent a day or so ago—in fact, it was Friday of last week—we had agreed and we had discussed it, and then it was said, well, there might be some objections, so let us wait a while.

We came back after about 4 hours and discussed it again, and then we entered into an agreement that amendments must be germane.

The Senator might not have known about that and so, as far as I am concerned, with regard to this particular amendment, the Senator has a lot of equity to his side because he had offered it in the committee, and if the Senator wants to offer it, it will be all right with me. But I think in view of the fact that the unanimous-consent agreement was entered into at a time when it was discussed on the floor, and thereafter there was a period of about 3 or 4 hours before it was discussed again, and then it was agreed that amendments must be germane, I think that every Senator who might want to object ought to be privileged to know that I have no objection. It is all right with me and, so far as I am concerned, I would be willing to ask consent that the Senator's amendment could be offered.

Mr. MUSKIE. Mr. President, do I have the floor?

The PRESIDING OFFICER. The Senator from Maine has the floor.

Mr. MUSKIE. Let me make two other points that may, hopefully, throw some light on this.

In the first place, the Budget Act requires that the Committee on Finance shall act promptly when it is mandated—that is the word "promptly," when it is mandated—to report a reconciliation bill. Now they have reported this one properly. It meets the specifications.

The second point I make is that the only limitation we impose—and by that I mean the second concurrent resolution which Congress has adopted—is an approximately $6.4 billion tax reduction.

If I understand the price tax on this bill, it is somewhere between $6.13 billion and $6.27 billion. We have not been able to nail down those numbers yet. But to the extent that amendments on the floor would reflect further reductions in revenue up to $6.4 billion, I suppose the germaness issue would not arise as to them. It is only if they go beyond the $6.4 billion that the strictures of the Budget Act would apply. I am talking now about the Budget Act and its implications.

Now, whether or not from a practical point of view, in terms of trying to meet the confrontation with the President as posed by this, we ought to avoid other amendments, that is another matter. It has nothing to do with the Budget Act. But insofar as the Budget Act is concerned, all it mandates is a reduction in taxes of not more than $6.4 billion. The bill before us does not go that far. To the extent that other amendments would increase tax reductions up to that amount, they would not run afoul, I take it, of the Budget Act or the second resolution.

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

Mr. MUSKIE. Yes.

Mr. HARTKE. First, let me point out the housing credit amendment I have intended to offer does not violate the totality of the concurrent resolution. But, as I understand the parliamentary procedure, the budget law would not alone apply to the amount but, under the interpretation of the budget law, that the law provides under section 301 that any amendment must be germane to the bill and not germane to the amount, germane to the contents of the bill as it comes out of the committee, and not to the basic law of the land. In other words, it cannot relate simply to any matter dealing with taxation. It has to deal specifically, as the old closed rules of the House operated, it has to deal specifically with a matter in the bill, and since there is no housing credit amendment, no housing credit provision, in the bill, then any measure dealing with the housing credit is nongermane and, therefore, is not to be considered, and that would apply to any other amendment that any other Member of the Senate would want to propose unless there is a specific item in the bill itself dealing with this subject.

Mr. MUSKIE. I am afraid I am not parliamentarian enough to judge those implications of the President's proposed amendments, aside from the revenue implications.

Mr. LONG. Will the Senator yield at that point?

Mr. HARTKE. Yes.

Mr. LONG. Mr. President, in view of the fact that the tax credit amendment was part of the 1975 tax cut bill and in view of the fact that the amendment was considered in the Committee on Finance on this occasion and it failed on a tie vote, I believe that it would be well, if the Senator would like, that he would be privileged to offer that amendment.

So I ask unanimous consent that the Senator from Indiana might offer his amendment.

Mr. DOLE. Mr. President, with regard to the extension of the housing credit as an amendment to the bill——

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Reserving the right to object, and I shall be constrained to object, unless, as I understand the parliamentary situation, we are not even entitled to offer a motion to recommit the bill, is that correct, with instructions?

The PRESIDING OFFICER. A motion to recommit except the motion to recommit with instructions to report back within a specified number of days, not to exceed 3, not counting any day on which the Senate is not in session, is not in order.

Mr. DOLE. That a motion to recommit with instructions to report back within 3 days would be in order?

The PRESIDING OFFICER. That is correct, that is the exception in the law.

Mr. LONG. That makes the exception.

Mr. DOLE. Further reserving the right to object, and perhaps I can agree to the request if we could have a brief quorum call so I could check the specific——

Mr. MUSKIE. Will the Senator yield?

Mr. DOLE. I yield.

Mr. MUSKIE. I wonder if I might not yield the floor. I think I have made whatever contribution I can with discussion to the problem.

I will be on the floor, but there is another matter I want to attend to in connection with this bill.

Mr. MANSFIELD. Will the Senator yield?

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. Reserving the right to object——

The PRESIDING OFFICER. Is there objection?

Mr. DOLE [continuing]. And I suggest the absence of a quorum on the basis that the Senator from Kansas be recognized and not lose his right to the floor.

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

Mr. LONG. Mr. President, I assume this is charged to the time in opposition?

The PRESIDING OFFICER. The time will be charged to the opposition.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. MONDALE. Mr. President, on Saturday, December 13, 1975, an article appeared in the New York Times entitled "Congress Succeeding in Curbs on Spending." This article by Richard Madden sets forth, I believe, the really very impressive development which has followed upon the enactment of the Budget Control Act, and recounts the very successful progress that we have made to date in the work of the Budget Committee.

I think this is a great compliment to its chairman, the Senator from Maine

(Mr. MUSKIE) and the ranking member on the minority side (Mr. BELLMON).

I ask unanimous consent that this article be printed in the RECORD.

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

CONGRESS SUCCEEDING IN CURBS ON SPENDING
(By Richard L. Madden)

WASHINGTON, December 12.—To the surprise of some of its own members, Congress in less than a year's time has taken the first cautious but so far successful steps toward gaining control of the Federal Government's purse strings.

For the first time, both the Senate and the House of Representatives, despite some close votes, have agreed on an overall ceiling for Federal spending in the current fiscal year and have bound themselves to try to legislate within that limit.

The House completed that step today by voting, 189 to 187, to limit spending to $374.9 billion in the fiscal year ending June 30, leaving a deficit of $74.1 billion. The Senate easily approved these limits yesterday by a vote of 73 to 19. The President's approval is not required.

Adoption of this budget measure, which also directs Congress to keep revenues at $300.8 billion, means that any future legislation that would break through the spending ceiling or lower the floor on revenues could be blocked by a point of order unless the limits were waived or a new budget resolution adopted.

If this new-found fiscal discipline continues next year, when the conduct of the new Congressional budget process becomes more demanding, and perhaps more painful, it could drastically alter the way Congress transacts its business and rearranges its power structure as well.

And ultimately, according to senior members of the Senate and House Budget Committees, the new process could force Congress to re-examine much more closely what up to now have been sacrosanct spending programs that range from veterans' benefits to public works to Social Security.

There is still skepticism that such a diverse institution as Congress can successfully discipline itself into more fiscal restraint. Two previous attempts to create a more coherent Congressional budget process collapsed shortly after World War II. But so far at least, supporters of the new procedure can claim some initial victories, such as the following:

At the urging of the Senate Budget Committee, a massive defense procurement bill, a pet of the conservatives, and a school lunch bill, a pet of the liberals, were sent back to conference committees to be scaled down to meet the budget targets.

A bill enabling Federal workers to retire after 30 years' service with full benefits disappeared quietly in the House Post Office and Civil Service Committee after Representative Brock Adams, a Washington Democrat who is chairman of the House Budget Committee, warned that he would fight the bill on the House floor because of its budgetary impact.

Prodded by the Budget Committees in both houses, Congress limited a pay rise for Federal employees to 5 percent instead of the 8.6 percent that had been sought, and many other bills have been altered without fanfare to ease Budget Committee objections.

Senior members of the Budget Committees say that now many representatives and senators quietly approach them to check that their bills fit within the budget targets.

FAR MORE EFFECTIVE

"It is for real," Representative James C. Wright, Jr., a Texas Democrat, who is on the House Budget Committee, said of the new budget procedure. "I think it has become far more effective than anyone thought it would in the first year," he said in an interview.

And Senator Edmund S. Muskie, Democrat of Maine, who is chairman of the Senate Budget Committee, told the Senate yesterday that the new process "has so far succeeded beyond our most optimistic expectations."

The new system is in sharp contrast to the way Congress used to do business. In past years a President would send up his proposed budget each January and then Congress, on a piecemeal basis, would pass various bills authorizing programs and 13 regular appropriations bills (plus supplemental measures) to provide the money. There was no over-all assessment of how much money was coming in or how much was going out or how one bill related to another.

"It was almost like hiring 13 carpenters to build a 13-room house and instructing each to build a room to his own liking without any guide to overall dimensions or any real concern for what the other 12 carpenters were doing," Mr. Wright explained in a newsletter to constituents.

Under the new budget control law, which was approved last year and which is to be more fully in operation next year, Congress each May will approve a first budget resolution setting targets for total spending and revenues, plus subtotals for 17 separate governmental functions ranging from defense to agriculture to health to interest on the national debt. Then in September both houses will have to pass a second budget resolution, similar to the one approved today, setting more binding limits.

This year's first run-through focused on the over-all spending and revenue totals, and the Senate and House did not vote directly on each of the individual spending categories, although the Budget Committees did. Next year is expected to provide a more critical test because both houses will vote on setting the individual limits, which would cause some intensive battles over establishing priorities for such things as defense and social programs.

Under the more stringent timetable next year, neither house is to consider bills creating new spending authority until the first budget resolution is passed in May. The aim is to have work on all spending bills completed by the final September resolution to coincide with the start of the Government's new fiscal year, which will begin Oct. 1, next year instead of July 1.

Also under the new law, Congress cannot adjourn until it has acted on the second budget resolution and completed any work needed to reconcile or adjust any previously passed legislation that would breach the set limits.

Creation of the Budget Committees has already caused some friction with the other established and powerful committees, particularly in the Senate. Senator John L. McClellan, Democrat of Arkansas, who is chairman of the Appropriations Committee, which in the past handled spending bills without any second guessing, has had some differences with Mr. Muskie over some of the procedures.

By contrast, on the House side Mr. Adams has developed what is described as a close working relationship with Representative George H. Mahon, Democrat of Texas, who is chairman of the Appropriations Committee.

"There is some tension that the Budget Committee may be getting too big for its britches," one Senator on the committee said. But so far, he added, the committee has generally prevailed.

As the Budget Committee members of the two houses met in conference last week to reconcile their differences over the spending limits, Mr. Muskie at one point warned his House colleagues, "They're going to walk all over you on the floor if your figures are too vague and hasty. I ran into the McClellan buzz saw a couple of times."

NOT THE MOST POPULAR

At another point Representative Sam Gibbons, Democrat of Florida, who is on the House budget unit, remarked: "We're not the most popular members of the House. Some people would like to get rid of us."

Representative Charles H. Wilson, a California Democrat, has already introduced a bill to repeal the new budget process.

"We seem to have created, without really thinking about it, an all-powerful committee, one which would hold the purse strings for every Federal body in the United States," he said.

Apparently to prevent the members of the Budget Committee from amassing too much power, the House restricted its 23 members to four-year terms on the committee. The Senate does not have a similar restriction on its committee members.

Other criticism has focused on the Congressional Budget Office, which was created by the budget law to provide Congress with fiscal expertise similar to what the President has with the Office of Management and Budget. The director of the Congressional Office, Alice Rivlin, an economist and former senior fellow at the Brookings Institution, angered some members of the House Appropriations Committee earlier this year by her request for 66 more staff members and an automobile to carry the staff to and from the Capitol.

The 48-year-old, boyish-looking Mr. Adams attributes the close votes in the House on the budget resolutions, such as the one today, to the fact that the members were being asked to vote directly for the first time on resolutions contemplating a $70 billion-plus deficit.

"People don't like that deficit," he said. "And the idea hasn't completely gotten through that the Budget Committee doesn't create the deficit—it simply exposes it."

Representative Delbert L. Latta of Ohio, the ranking Republican on the House Budget Committee, urged the House today to reject the measure on the ground that it "accepts the policy of deficit spending." He charged that the new process was budget control "in name only" and amounted to what he called "budget accommodation."

Only three Republicans and 186 Democrats voted in favor of the budget measure, while 126 Republicans and 61 Democrats opposed it.

While many conservatives have opposed the budget process because of the large deficit, some liberal Democrats have also begun to realize that the spending limitations, even with a big deficit, have not left room for any major new social or recession-fighting programs because just continuing existing programs has eaten up most of the available funds.

COULD GO BACK

Several Budget Committee members said that this could drive Congress to go back and cut down any number of existing programs to make funds available for new initiatives, such as national health insurance.

"I think the most important thing this year is that the Senate and the House have indicated a willingness to accept the discipline," Senator Muskie said in an interview. "I think it is doable. It's going to mean changing some habits," he added.

In contrast to widespread opposition in the House, the Senate's stronger votes for the Budget limitations are attributed to the fact that the 61-year-old Muskie, regarded as a liberal, and the Budget Committee's ranking Republican, Henry L. Bellmon, a 54-year-old fiscal conservative from Oklahoma, have remained united in defending the budget process on the Senate floor.

Mr. Bellmon recalled in an interview that he did not know Mr. Muskie until they were put together on the committee.

"We were in effect a couple of strangers," he said, "but we decided that the process was so important to the country that it had to be made to work. I think both he and I have been willing to submerge our personal preferences to the process and to speak in harmony. We have tried very hard to hold the whole committee together."

DECIDED NOT TO OPPOSE

Mr. Muskie acknowledged that last spring "a lot of votes" went against him as his committee was preparing its first budget resolution and that he considered opposing the measure, or trying to change it, on the Senate floor. Mr. Bellmon also had misgivings and waited to see what Mr. Muskie would do.

"I finally decided that if I pressed my own personal views on the floor the whole process would lose all credibility," Senator Muskie said. "So I told him I was prepared to support the resolution against the left or right in the interest of making this thing stick, if he would," Mr. Bellmon agreed.

Mr. Muskie said that a businessman looking at the new process would probably focus on the size of the deficit, but borrowing a local football analogy, he added:

"The important thing is that control is being established. George Allen [coach of the Washington Redskins] maintains that once he's established ball control he can control what happens on the football field. So what we're doing is establishing ball control here."

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

The PRESIDING OFFICER. On whose time?

Mr. LONG. Mr. President——

The PRESIDING OFFICER. The Senator from Kansas has the floor.

Does the Senator from Kansas yield?

Mr. DOLE. I yield to the Senator from Louisiana.

Mr. LONG. Mr. President, I have had further discussion with Senators, and I believe we can accommodate one another, as we oftentimes do, by a unanimous-consent request.

With regard to what the Senator from Kansas is interested in doing, it seems to me that within the rules and within the unanimous-consent request that was granted it was certainly my intention that more than one provision limiting spending could be offered as amendments from the minority side. I would ask if the unanimous-consent request includes that?

The PRESIDING OFFICER. The consent resolution of last Friday exempted the spending ceiling amendment from the germaneness requirement.

Mr. LONG. So spending ceiling limitations are exempted from the germaneness requirement?

The PRESIDING OFFICER. They are exempt from the germaneness requirement.

Mr. LONG. Right. So the Senator from Kansas would then be in a position rather than offering a motion to recommit to simply offer whatever spending limitation amendment he would like to offer as an amendment to the bill before the Senate. Is that not correct?

The PRESIDING OFFICER. That would be correct, except for the provisions of section 306 of the budget bill which states that no bill or resolution and no amendment to any bill or resolution dealing with any matter which is in the jurisdiction of the Committee on the Budget of either House shall be considered by either House unless it is a bill or a resolution which has been reported by the Committee on the Budget of that House.

Mr. MUSKIE. Mr. President, reserving the right to object——

Mr. LONG. Mr. President, as I understand it, we have agreed by unanimous consent that an amendment involving a spending limitation, which is to reflect the position of the President of the United States, could be offered on this bill. We agreed to that by unanimous consent on Friday, or at least prior to today.

The PRESIDING OFFICER. The order only related to waiving the germaneness rule.

Mr. CURTIS. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CURTIS. What else is involved?

Mr. DOLE. The law.

The PRESIDING OFFICER. The request on Friday was that amendments must be germane with the exception of a minority amendment to propose the President's program.

UNANIMOUS-CONSENT REQUEST

Mr. LONG. I ask unanimous consent, Mr. President, that amendments may be offered relating to the spending limitation on this bill.

Mr. MUSKIE. Mr. President, reserving the right to object, I was not in the Chamber when the unanimous-consent agreement was entered into. I was not aware of it until a few moments ago. I have no objection to offering the kind of language we were discussing last Friday without raising the point of order. What the Senator has now proposed is a direct undermining of the Budget Control Act. The Budget Act says that spending ceilings shall be set on or before May 15 in accordance with the procedures of the Budget Act.

I, for one, will not agree to shortcutting that whole procedure by admitting by unanimous consent some number not yet identified which is going to be offered in a binding way, if enacted, to undermine that whole budget process. I do object to any such unanimous-consent request in that form.

Mr. LONG. Mr. President, if the Senator would like me to be more specific, as I understand it the Senator from Kansas wants to offer a figure of $395 billion. I am going to vote against that, but that is the figure that the President has mentioned. He has mentioned a series of figures, one of which is $395 billion. They all add up to the same thing one way or the other.

My understanding of all of these proposals is that there is nothing about any of them that could not be changed between now and the time they go into effect, anyway. But I think we are just losing a lot of time by denying Senators the right to offer some kind of a legislative proposal, even if it be only a sense of the Senate resolution, on which they would like to vote, because until the Senate expresses itself, all we do on a matter of this sort is just play games with one another. We charge up the hill and then charge back down; and in view of the fact that the President has taken the point of view that he is going to veto this bill unless we have a certain type of spending limitation attached to it, I would just like to let the Senate express itself.

I am confident I know how the Senate is going to express itself within reasonable limits, and I think we ought to be about that. To do otherwise, it seems to me, Mr. President, is just to make a lot of work for ourselves, spending days doing something we could dispose of in an hour or two.

Mr. MUSKIE. Mr. President, let me read section 306. This is also a part of the budget process.

Mr. DOLE. Mr. President, who has the floor?

Mr. LONG. Mr. President, I yield to the Senator from Maine.

Mr. MUSKIE. It reads:

No bill or resolution, and no amendment to any bill or resolution, dealing with any matter—

Mr. DOLE. Mr. President——

The PRESIDING OFFICER. Is there objection to the request of the Senator from Louisiana?

Mr. MUSKIE. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MUSKIE. I was trying to read the provision of the legislation. I do not understand the interruption.

The PRESIDING OFFICER. The Senator from Kansas has the floor.

Mr. LONG. The Senator from Kansas has the floor.

Mr. MUSKIE. I am sorry; I understood the Senator from Louisiana had it.

The PRESIDING OFFICER. The Senator from Kansas yielded to the Senator from Louisiana without relinquishing his right to the floor.

Mr. DOLE. Yes. Mr. President, I wish to propound a further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOLE. As I understand it, the Parliamentarian is, in substance, ruling that section 306 is in effect notwithstanding the unanimous-consent agreement of last Friday. Is that correct?

The PRESIDING OFFICER. The unanimous-consent agreement of last Friday had no relationship to section 306.

Mr. DOLE. Can a Senator, by unanimous consent, make a motion to recommit or eliminate the reference to the spending ceiling? Can that be made notwithstanding section 306?

The PRESIDING OFFICER. No, it cannot.

Mr. DOLE. Not by unanimous consent?

The PRESIDING OFFICER. Yes, by unanimous consent.

Mr. DOLE. Then I would say to my

good friend from Maine that I yield to the Senator from Maine without losing my right to the floor to explain section 306. Members of the minority, Senator CURTIS, Senator BELLMON, and others, are meeting at this time to see if some resolution cannot be reached on the controversy. If that can be reached, perhaps the Senator from Maine would withdraw his objection at this point, pending some effort to resolve the impasse.

I agree with the Senator from Louisiana that we could stand here all day, all night, and all day tomorrow, and talk about the different sections of the Budget Act, but it would certainly seem to me to be in the interest of moving along with this session of Congress to work out something.

Having said that, I yield to the Senator from Maine without relinquishing my right to the floor.

Mr. MUSKIE. Well, let me say in reference to the language that I have indicated my willingness to accommodate myself to that objective, but as I understand the unanimous-consent request that was proposed by the Senator from Louisiana, he proposed a unanimous-consent agreement to make any amendments with specific dollar ceilings admissible, notwithstanding the provisions of the act; and I would object to such a proposal for this reason: All I have to do is read section 306 of the Congressional Budget Act, which reads as follows:

> No bill or resolution, and no amendment to any bill or resolution, dealing with any matter which is within the jurisdiction of the Committee on the Budget of either House shall be considered in that House unless it is a bill or resolution which has been reported by the Committee on the Budget of that House (or from the consideration of which such committee has been discharged) or unless it is an amendment to such a bill or resolution.

Under that provision, any resolution to set spending ceilings must be reported to the Senate by the Senate Committee on the Budget.

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

Mr. MUSKIE. I am not going to acquiesce in bypassing that requirement. I yield to the Senator from Nebraska.

Mr. CURTIS. Does the Senator from Maine contend that the tax bill before us has no standing because it was not considered and reported by the Committee on the Budget?

Mr. MUSKIE. No. The tax bill is in response to the mandate of the second budget resolution, and as such, the procedures for reporting it are also specified in the act.

Mr. CURTIS. Does the tax bill carry any language in any way modifying or amending the concurrent resolution, the first one or the second one, of the Budget Committee?

Mr. MUSKIE. Not to my knowledge.

Mr. CURTIS. Is it the Senator's contention, reading section No.——

Mr. MUSKIE. May I say if it did, it would be out of order.

Mr. CURTIS. Is it the Senator's contention that section 306 would make it impossible to consider a public works bill which had not been reported out of the Committee on the Budget? It deals with an expenditure.

Mr. LONG. Mr. President——

Mr. MUSKIE. Wait a minute; I was answering a question from the Senator from Nebraska.

Mr. CURTIS. Did not the Senator mention that section 306 would prohibit the Committee on Public Works from reporting out a public works bill?

Mr. MUSKIE. A public works bill is not a subject dealing with the budget. A public works bill is not within the jurisdiction of the Committee on the Budget. Let me reread the language to the Senator from Nebraska, if he is interested in hearing it:

> No bill or resolution, and no amendment to any bill or resolution, dealing with any matter which is within the jurisdiction of the Committee on the Budget.

Public works legislation is not within the jurisdiction of the Committee on the Budget; it is within the jurisdiction of the Public Works Committee.

Mr. CURTIS. Is the tax bill within the Budget Committee's jurisdiction?

Mr. MUSKIE. The tax bill is within our jurisdiction to the extent that what it proposes by way of revenue reductions or increases runs afoul of the figures established in the budget resolution.

Mr. CURTIS. Then the Senator is saying that the jurisdiction of the Finance Committee is reduced to those changes in the tax law which neither add nor detract from revenue?

Mr. MUSKIE. You can have offsetting actions. I could conceive of a tax bill that would increase revenues in the form of tax reform by $10 billion to $15 billion, and would offset those increases in revenues by tax reductions. I mean, one can conceive of billions of dollars of jurisdiction of the Finance Committee that is outside the jurisdiction of the Budget Committee. Our committee deals with the target numbers, the ceiling numbers.

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

The PRESIDING OFFICER. On whose time?

Mr. LONG. On my time.

The PRESIDING OFFICER. The clerk will call the roll.

The 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.

UNANIMOUS-CONSENT AGREEMENT

Mr. LONG. Mr. President, I ask unanimous consent that three amendments might be presented and might be voted on notwithstanding the germaneness rule: One by Mr. HARTKE dealing with the housing amendment, identified as amendment No. 1255; another to be presented by Mr. CURTIS, dealing with the $395 billion spending limitation; and another to be presented by Mr. ROTH dealing with the limitation on spending.

The PRESIDING OFFICER. Is there objection?

Mr. LONG. I ask unanimous consent that the debate on each amendment be limited to 1 hour, to be equally divided.

Mr. CURTIS. Reserving the right to object, and I shall not object, may we have the understanding that the Curtis amendment precedes the one offered by Mr. ROTH and the members of the Committee on the Budget?

Mr. LONG. Yes.

Mr. MUSKIE. Reserving the right to object, Mr. President, and I shall not object, I want to make it clear that agreement to this unanimous consent request should not be regarded as a precedent for waiving section 306 of the Budget Act. As I indicated earlier in the debate, section 306 provides that no bill or resolution and no amendment to any bill or resolution shall be considered unless it has been reported by the Committee on the Budget.

I am disposed to agree to this unanimous consent request because, in the course of discussions over this tax bill and the President's proposal to tie spending ceilings to it, certain understandings developed as to what legislative opportunities Senators would have on the floor to vote on the President's proposals or other proposals dealing with spending.

In order to accommodate those discussions and understandings that developed, I have no objection to the Senate's considering the specific spending ceiling which will be proposed, as I understand it, by either Senator DOLE or Senator CURTIS, or the two combined. I hope that the Senator, in doing so, will draw the Senate's attention to the fact that in the future, section 306 will be insisted upon by the Committee on the Budget. In our judgment, that is the only rational way to consider budget matters.

In connection with this one, I think we shall have an opportunity to fully discuss the budget implications. I can make my argument based on section 306 in the course of that debate and the Senate can take section 306 into account in voting on the Dole and/or Curtis amendment.

So with that understanding, may I suggest to the distinguished chairman, the floor manager of the bill, the Senator ought to include in his unanimous-consent request section 306 specifically so that will be covered. With that, Mr. President, I will not object.

Mr. LONG. I so modify my request.

Mr. GRIFFIN. Mr. President, reserving the right to object, suppose there is an amendment in the second degree to these three amendments. I wonder what the Senator from Louisiana contemplates in that situation. Do we have a time limit?

Mr. LONG. I would assume if an amendment is to be considered, amendments germane to it could also be considered.

Mr. GRIFFIN. Should we have a 20-minute time limit on amendments in the second degree?

Mr. LONG. I ask unanimous consent that any amendments to the amendment be limited to 20 minutes, equally divided.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. Mr. President, reserving the right to object—and I shall not—with respect to whether this sets a prece-

dent, I think attention ought to be focused on section 904(b) of the Budget Act which reads as follows:

Any provision of title III or IV—

306 is part of title III—

may be waived or suspended in the Senate by a majority vote of the Members voting, a quorum being present or by unanimous consent of the Senate.

So we are certainly taking action here that is contemplated within the provisions of the Budget Act.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Louisiana?

Mr. HARTKE. Mr. President, reserving the right to object, may I ask one question of the Senator from Maine?

Mr. MUSKIE. May I make a parliamentary inquiry? Does the unanimous-consent agreement include 306? I suggested that to Senator LONG, and I do not know whether that suggestion was sufficient to incorporate 306 in the agreement or not. That ought to be clear.

The PRESIDING OFFICER. Is the Senator asking that section 306 be waived in that part of the unanimous-consent request?

Mr. MUSKIE. Only for the purpose of this specific request.

Mr. LONG. Only insofar as these amendments are concerned.

The PRESIDING OFFICER. The Chair would have to ask the Senator from Louisiana whether that is part of his unanimous-consent request.

Mr. LONG. Yes, I ask it be waived only insofar as these three amendments and amendments thereto are concerned.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? The Chair hears none, and it is so ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1255

Mr. HARTKE. Mr. President, I call up my amendment No. 1255 and I ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. HARTKE. I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . SIX MONTH EXTENSION OF HOUSING TAX CREDIT.

(a) Subsection (e)(1)(C) of section 44 of the Internal Revenue Code of 1954 (relating to property to which the credit for purchase of new principal residence applies) is amended by striking out "January 1, 1976" and inserting in lieu thereof "July 1, 1976".

Mr. HARTKE. This amendment would extend the $2,000 housing tax credit for an additional 6 months. This credit was first put into law in the tax reduction act earlier this year. It gives the purchaser of a new home a tax credit of 5 percent of the purchase price of the home up to a maximum of $2,000. The credit has been extremely effective in selling new homes and stimulating new construction in the home building industry, and thus creating new jobs. I think it is important that the one area of significant improvement this year in the construction industry has been residential construction for homebuyers. Even this area has not recovered as much as we would have liked, but all other construction activity is still dismally depressed.

The $2,000 housing tax credit, while not solely responsible, has at least contributed significantly to this increase in home building activity. The National Association of Homebuilders has done extensive surveys of their membership to assess the success of the credit. The survey in May indicated that in the first 30 days after the tax credit was adopted, 23 percent of the eligible homes were sold. The homebuilders attributed this sales increase to the tax credit, and the Wall Street Journal commented in an article on May 12, "Uncle Sam appears to have offered new homebuyers an incentive they cannot refuse," commenting upon this same matter, and I ask unanimous consent that that article be printed as part of my remarks at the close of my statement.

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

(See exhibit 1.)

Mr. HARTKE. Later surveys of the National Association of Home Builders indicate the following: Originally there were approximately 650,000 unsold homes which could qualify for the credit. By June, sales had reduced the number to 494,000 units. Additional sales since June have reduced the number to approximately 247,000 units. Their surveys also indicate that 44 percent of these homes which have been sold were sold as a direct result of the tax credit.

Summarizing these results the National Association of Home Builders in a statement in November of this year said the following:

It is remarkable, considering the high mortgage rates, that for sale housing has done as well as it has. Some of the glut of the new unsold inventory has been moved, to a significant degree, as a result of the $2,000 tax credit. An NAHB survey shows that by the end of June the tax credit was responsible for the sale of about 40 percent of all units qualifying under this program.

This one-shot program stimulated further production of new units. The survey indicated a nearly one-to-one ratio of units sold because of the tax credit to new units started.

This latter point is extremely important; not only did the tax credit sell homes, at a time when most economic factors were adverse, but it also stimulated new home construction. This is a crucial point because this new construction creates thousands of new jobs both in the construction industry and, through the multiplier effect, in all the supplier industries.

I want to emphasize that this amendment does not make any homes eligible for the $2,000 credit that are not now eligible and thus it does not increase the expected cost of the provision. All the amendment does is extend the expiration date for the credit on presently eligible houses for an additional 6 months in accordance with the general overall bill which is before the Senate at this time. In other words, it will continue this highly effective stimulus to home sales and construction.

I want to point out that during the original debate in the Finance Committee this amendment resulted in a tie vote. We have a unique situation in the Finance Committee of having an even number of members, and the vote was a tie and, therefore, the amendment did not succeed.

According to the reports given to us at that time, the fiscal year monetary effects are neither negligible or practically negligible. In other words, it will have no fiscal impact in fiscal year 1976.

Incidentally, this is the only amendment to the original bill which was not included in the final bill as it is being considered at this time so we are not doing anything new but just really, in substance, taking the bill which we passed in 1975, which was enacted on March 29, and extending, in substance, all of the provisions instead of eliminating this one provision.

I want to point out that a recent article in the Wall Street Journal, under date of December 10, 1975, in "Out in the Cold" and which is entitled "Many House Hunters Find New Homes Are Beyond Their Means," and which also says "First Time Buyers Suffer Most; Instead They Rent or Settle for Older Units," the article points out here very simply again that this type of operation is the one operation which can possibly provide for some relief. In fact, if you read on further in the article—and I ask unanimous consent that this article, too, be included at the end of my remarks——

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

(See exhibit 2.)

Mr. HARTKE (continuing). Makes this statement under the caption "Little Optimism," and where it says:

Indeed, some observers predict that the housing situation will get worse. "We're probably at the peak of the housing recovery now, and by the fourth quarter of 1976, housing starts should be about 10% below current levels," says Stephen Lewis, manager of the shelter group of Weyerhaeuser Real Estate Co., a unit of Weyerhaeuser Co. The most optimistic analysts think that housing starts could make a weak gain, to 1.3 million to 1.6 million units, in 1976.

Mr. President, there may be a number of reasons why housing is in this slump, but there certainly is no reason why, when we are taking into consideration all the other measures of the taxpayer and going to extend it for 6 months, we should not do the same with the housing credit.

The net result is, again, that the effect upon the budget is none in 1976. The net

result is we do not add any units that are not available at the present time. All the amendment simply does is extend the period under which people can avail themselves of this tax credit.

Mr. President, the expiration date would be extended from January 1, 1976, to July 1, 1976.

EXHIBIT No. 1

[From the Wall Street Journal, May 12, 1975]

HOME BUILDERS SAY TAX CREDIT FOR BUYERS HAS STIMULATED SALES

(By Ronald G. Shafer and Mark Starr)

Uncle Sam appears to have offered new-home buyers an incentive they can't refuse. And so that nation's home builders are starting to unload an inventory that had mounted to about 650,000 unsold homes.

The recently enacted tax credit of up to $2,000 on a new-home purchase has buyers suddenly snapping up houses they spurned for months, builders say. Some 350 builders surveyed by the National Association of Home Builders sold a surprising 23% of the houses and condominiums in their combined backlogs just in the first 30 days after the tax incentive went into effect March 30. What's more, these builders expect to sell 65% of their original inventory within the next 60 days to 90 days. Most trace the sales turnaround to the tax credit.

Talks with other builders around the country confirm that, despite much confusion about the tax credit, it generally is drawing buyers.

"They aren't standing in line, but in certain condominium subdivisions (in California) we're doubling our sales," says Louis Berkowitz, senior vice president of Kaufman & Broad Inc., one of the nation's largest home builders. He estimated the company has moved 25% of its nationwide inventory of houses and condominiums since the tax break took effect.

National Homes Corp. reports a similar positive response to the tax credit from its 1,400 sales outlets nationwide. "There's no question that, overall, it's been a strong stimulant," says David Price, executive vice president.

IMPACT IS SIGNIFICANT

The strong initial impact of the tax credit is significant because, housing analysts say, builders must whittle down the supply of unsold homes before the ailing industry can get back on its feet. Builders won't start much new construction and rehire laid-off workers until they sell houses they've already built. The estimated stock of 400,000 unsold single-family homes toted up just before the tax credit became effective represented a one-year supply based on the depressed sales rates of early this year. There also were an estimated 250,000 unsold condominium units.

The glut of unsold homes spurred Congress to tack the home-purchase credit onto the $22.8 billion tax-cut bill passed in late March. The law allows buyers to deduct from their 1975 taxes 5%—up to $2,000—of the purchase price of a new home built or under construction before March 16. To be considered new, a home must never have been sold. The credit, which will cost the government about $600 million, was criticized by many people, including President Ford when he signed the tax-cut bill into law March 30. Critics contend the credit is unnecessary and too costly.

Many home builders themselves have complaints—"it's a stupid law," says a Glen Falls, N.Y., builder. Those who prudently avoided building up big inventories are especially dubious about the tax incentive. But despite criticisms, the credit "sure seems to sell houses," says Michael Sumichrast, the builders association's chief economist.

As a result, builders may be able to slim down their bloated backlogs sooner than most analysts expected. But nobody knows by how much because nobody knows how much of the inventory is covered by the tax credit. The confusion arises partly from the fact that in order to qualify, a home must be sold at the lowest price at which it ever was offered for sale. Like many builders, Kaufman & Broad early his year temporarily cut prices on some houses; since then it has raised them "and we got locked in" when the tax credit came along, Mr. Berkowitz says. To make these houses eligible for the credit, the company would have to retreat to its cut-rate prices. Rather than do that, some company officials decided to forgo offering the credit on houses under their supervision.

OTHER PROBLEMS REMAIN

Even with reduced inventories, however, many builders say they aren't in any hurry to put up more houses because of their concern over the strength of the economy and fear of a new rise in mortgage rates. And, ironically, the tax rebate may deter some construction because homes started after March 16 don't benefit from the credit. "I'm hesitant to start anything new when I'm going to be in competition with other builders with tax-credit properties," says Norman Silets, sales manager of Practical Home Builders in Oak Park, Mich.

Nevertheless, "fiscal stimulus, including the tax credit," and a likely economic upturn "are almost certain to stimulate demand for new housing and eventually fuel a recovery in construction," albeit a "tentative and fragile" one, predicts Maurice Mann, president of the San Francisco Federal Home Loan Bank. Economists generally expect housing starts to rise slowly in this year's second half from a seasonably adjusted annual rate of 980,000 units in March—the second-lowest monthly pace in 30 years—to an annual rate between 1.4 million and 1.7 million by the fourth quarter.

Housing sales already were beginning to pick up even before the tax credit. Mortgage rates, though they've started back up recently, are well below last year's heights, and mortgage money is plentiful. But builders say the tax credit is what's spurring sales now.

"Most of the buyers are asking, 'Is this covered by the tax credit?'" says Chester Moskol, executive vice president of Miller Builders in Chicago. The company has sold about 25% of its hefty inventory of 500 condominium units since the tax credit became law. "The credit definitely is going to move the merchandise," Mr. Moskol says confidently.

Some home buyers agree that it was the tax saving that convinced them. Wayne Keeney, a retired Detroit police detective, recently bought a condominium in Novi, Mich., much farther out from the city than the suburb where he had been living. "I don't think I would have bought that one without the tax credit," he says. "But I figured what the heck, I'm putting down 5% and I'm going to get it back. It's a gift, a great thing," Mr. Keeney adds.

Besides, he sees it as a kind of taxpayer's revenge on the Internal Revenue Service. "I figure the IRS is helping me pay for that home," says the ex-policeman. "They've been getting it from me for a long enough time."

Builders and buyers aren't the only ones who benefit from the tax credit; so will bankers who foreclosed on unsold houses of bankrupt builders. "The worst of the turkeys have gone to the banks," notes one housing economist. "Lenders have high hopes the tax credit will help them get rid" of foreclosed homes, he says.

Some housing executives contend the credit may help more in some areas of the country than others. "This is commonly known in the industry as a West Coast-Florida bill" because inventories are highest in those areas, say an official of the Greater Chicago Home Builders Association. Reports from the high-inventory areas are mixed. But Kaufman & Broad says it has already moved 40% of its unsold houses in California, where its sales have been biggest.

Even within a limited area, the blessings bestowed by the tax credit may vary widely. During the past month RGM Builders in Boca Raton, Fla., has sold 15 of the 25 single-family houses it had in stock, compared with a pace of one sale a week previously. "I don't think—I know the tax credit was the reason," says J. A. Moles, RGM's sales manager. But a builder in nearby Palm Beach complains that "the buyer is quite apathetic to the credit."

The secret of sales success may lie in how the credit is promoted. The home builders association in Charlotte, N.C., ran full-page ads in local newspapers explaining the credit and urging consumers to call the local IRS office with any questions. Says a spokesman for Ervin Industries, a large Charlotte builder: "The first five days after the ad came out we had 70 calls wanting to know if we had homes that qualified." The company has since sold 89 of 203 homes it had in stock.

Many builders complain that one drawback is confusion over which houses qualify. "I haven't even advertised the credit because, frankly, I'm still not clear on eligibility," says Norman Long, a Troy, Mich., builder. "The people don't understand the whole thing, and neither do the builders," he maintains.

The law has other complexities. The credit applies only to new homes that are principal places of residence and are purchased between March 21 and Dec. 31 of this year. The credit is based on the "adjusted" purchase price of the home after deducting any profits from sale of a previous home. Thus, the IRS says, if you paid $20,000 for your old house and sell it for $30,000 to buy a new house for $40,000, the "adjusted" price of the new houe would be $30,000 ($40,000 less the $10,000 profit) and your 5% tax credit would be $1,500, not $2,000.

The tax incentive may hold basic disadvantages as well. Some housing analysts argue the credit could harm a housing recovery later this year by stealing sales that would have been made in the future without the tax incentive. "Housing sales also could be adversely affected after December when the credit expires and the cost of any units still unsold at that time, in effect, will go up" as much as $2,000, warned Morgan Guaranty Trust Co. of New York in a recent report.

Morgan Guaranty also complains about the propriety of having "tax-payers foot the bill" for such housing-aid "gimmickry." But the tax credit seems to have only whetted many builders' appetites for more federal aid, such as pending legislation to provide government-subsidized mortgages for up to 400,000 new homes at an interest rate of 6%, far below the prevailing 8½% to 9%. A Bath, Pa., builder responded in the builders' survey on the tax credit—"Thank God. Get the 6% through."

EXHIBIT 2

[From the Wall Street Journal, Dec. 10, 1975]

OUT IN THE COLD—MANY HOUSE HUNTERS ARE BEYOND THEIR MEANS

(By Robert L. Simison)

MEMPHIS.—Once again, Gay Garrett has found her dream house. It's a sparkling-new, $36,900 three-bedroom model home in the growing southeast section of this city. "I just love it. This is what I want," the 22-year-old secretary says as she darts excitedly from room to room.

Her 22-year-old husband Chuck is less effusive. He leans dejectedly against a door, his

enthusiasm dulled by months of unsuccessful house-hunting. "We couldn't even afford to move in here," he says wearily.

Like thousands of other young couples, the Garretts are finding the dream of home ownership increasingly elusive these days. New-home contruction, expected to be making discernible gains by now, remains stagnant for a number of reasons, principally high interest rates, inflated home prices and shattered consumer confidence.

THE BUDGET: $24,000

In many ways, the Garretts are typical of the first-time buyers who have been squeezed out of the new-home market by a combination of these factors. Though their combined annual salary of $16,000 would easily qualify them to buy the model home that Gay so admires, they want something they'll be able to afford in about three years, when they plan to start a family and Gay expects to quit working. By then, Chuck, head basketball coach and an English and Latin teacher at a private school, hopes to be earning $10,000 a year. "I could put $3,000 into a home as a down payment and pay $220 a month and be happy and get fat," Chuck figures. Given Memphis's current 9½% interest rates for conventional mortgages, that would qualify them for a 95%, 30-year mortgage on a $24,000 home. "But we can't find anything new for that," Gay complains.

The Garretts' plight carries profound significance for the homebuilding industry and the economy as a whole. Housing starts are expected to hit a 29-year low this year. Most experts are predicting 1975 production to be 1.1 million to 1.2 million new residential units, including both single-family dwellings and apartments. That's down from 1974's 1.4 million units, and about half the all-time peak of 2.4 million units produced in 1972. After making only slight gains all year, housing starts spurted in October to a seasonally adjusted annual rate of 1.5 million units. Nevertheless, housing analysts termed the unexpected October jump a statistical "aberration," and cautioned that probably doesn't signal the beginning of a significant recovery.

"Nobody expected a very strong upturn," says Michael Sumichrast, chief economist for the National Association of Home Builders, "but we were optimistic." The association now predicts housing starts in the fourth quarter will reach an annual rate of 1.4 million units, lower than the 1.6 million units it had earlier predicted for the quarter. Housing's continued weakness has bolstered the widespread belief that the industry will trail recovery in other sectors of the economy, rather than lead it, as in past postwar recessions.

LITTLE OPTIMISM

Indeed, some observers predict that the housing situation will get worse. "We're probably at the peak of the housing recovery now, and by the fourth quarter of 1976, housing starts should be about 10% below current levels," says Stephen Lewis, manager of the shelter group of Weyerhaeuser Real Estate Co., a unit of Weyerhaeuser Co. The most optimistic analysts think that housing starts could make a weak gain, to 1.3 million to 1.6 million units, in 1976.

What went wrong? For one thing, builders' hopes that conventional mortgage rates would dip to 8% were dashed in September when lending institutions, responding to lower savings inflows, raised rates as high as 9½% from earlier lows of about 8½%.

And, of course, prices of new homes have skyrocketed. The median price of a home today is $39,000, whereas ten years ago, it was $20,000 and 20 years ago it was $13,400. Fewer than 23% of American families can afford to buy the median-priced home today, the home builders' association says.

FIRST-TIME BUYERS SHUT OUT

All this is keeping the largest group of potential customers—first-time buyers—out of the new-home market. Such buyers are typically couples aged 25 to 34. According to a survey by Investors Mortgage Insurance Co. in Boston, of the nearly 16 million couples in that age group, about six million already own homes and 4.5 million are actively seeking to buy. Their median family income was found to be about $14,800. With interest rates at 8½%, that median family income would qualify a buyer for an 80%, 30-year conventional mortgage on a $38,125 home. With rates at 9½%, the same buyer could afford to pay only $34,687, or $4,313 less than the current median new-home price.

As an alternative, many young couples are turning to existing homes. Of all money being spent on housing, 72% is going for existing homes, compared with 30% five years ago, according to Investor Mortgage. The National Association of Realtors says its seasonally adjusted index for existing single-family home sales rose to a record 122 in October. (It was 100 in 1972.)

The Garretts, too, settled at first on an existing home. They bought a 12-year-old, three-bedroom house in southeast Memphis for $23,400 last February. A big selling point was the location. It was near Elliston Baptist Academy, the school where Chuck teaches, and the offices of Farnham & Associates, Inc., the real-estate concern where Gay works. The Garretts were also happy with the purchase terms: $1,800 from their savings as the down payment and closing costs and monthly payments of $220.

Their pleasure was short-lived. The inexperienced home buyers soon discovered that their new home, acquired from a family acquaintance, was in sorry shape. They shortly found themselves painting the exterior in the snow to meet Federal Housing Administration requirements. (They had an FHA-insured loan.) Before they sold it in July for $28,500, they had also leveled the yard, reinforced the foundation, wallpapered the kitchen, repaired the plumbing, refinished the kitchen cabinets and installed new kitchen sinks and counter tops, a new toilet, new electric outlets, window screens, carpeting and a dishwasher. The Garretts say they cleared $900 on the sale, after these expenses.

"By the time we got it fixed, we didn't like it," Chuck explains. Gay adds: "I hated that house for all the work we had to do."

Now, the Garretts are back living in an apartment. As an incentive to move in, they got two months' free rent; they now pay $185 a month. Their only utility bill is $30 a month for electricity. That compares with more than $40 a month for heat and electricity, and $3 a month for water when they lived in the house. The Garretts count the apartment development's tennis courts as an added bonus, and Chuck savors the freedom from mowing lawns.

A good many young couples in this city of 864,000 are opting for apartment life over the financial and physical rigors of home ownership. J. B. Bell, executive director of the Memphis Home Builders Association, contends that low rents caused by Memphis's glut of unoccupied apartments is one factor keeping single-family housing permits in the area 26% below year-ago levels. After an early 1970s boom in apartment construction, the city's vacancy rate in July was 13.8%, double the June national rate of 6.3%. Through September, Memphis builders sought permits to build only 1,719 single-family units, down from 1974's 2,318 and sharply below 1972's record pace of 3,611, according to the home builders' association.

THE CONFIDENCE FACTOR

The Garrets' low rent has temporarily dulled their appetite for a new home, although they still hope to have one before they begin raising children. "I'm happy now" Gay says, "but I wouldn't want to live this way for the rest of my life." Chuck says he wants to have a house paid for by the time he is in his fifties. Gay's grandparents, in their sixties, never bought a home and are still renting. "That's a real sad situation," she says.

In at least one respect, the Garretts are atypical of most young couples in the market for their first new home. Outgoing and talented, they're undaunted by the recession and the nation's uncertain economic outlook. "One thing I'm not worried about is being out of work," remarks Chuck, who in addition to the two subjects he teaches, is qualified to coach several sports.

Generally, however, buyer confidence is low, housing experts say. The proportion of consumers expecting higher interest rates in the next 12 months climbed in the third quarter to 38% from 14% in the first quarter, according to the University of Michigan's Survey Research Center. This, the study observed, "slowed the recovery in attitudes toward buying a house."

A Weyerhaeuser spokesman says, "Consumers, lenders and builders themselves all lack confidence in the recovery." And a spokesman for U.S. Home Corp. adds: "Buyers aren't sure they want to put their life savings in a house."

Mr. CURTIS. Mr. President, I yield myself such time as I desire under the bill.

The PRESIDING OFFICER. The Senator is recognized.

Mr. CURTIS. Mr. President, I wish to make some comments about the pending amendment. The reason I am taking time under the bill is that the distinguished Senator from Kansas (Mr. DOLE) will speak on the amendment, also.

Mr. President, there is no necessity of adopting this amendment at this time. It does not affect withholding. But later on, after the first of the year, this matter can be considered. It does not have to be on this bill.

There are some of those matters I would like to call attention to. One is that it should be the objective of the Congress to have our tax law apply as fairly to all individuals and groups as possible. This particular provision falls short of that, in my opinion.

Suppose, for instance, on one side of the street there is a house offered for $30,000, no one has ever lived in it, it has never been used. Across the street is a comparable house, of equal value, for sale at $30,000. It is owned by a widow lady whose husband died 2 months after they bought it.

The purchaser of the first-mentioned house gets a $2,000 subsidy. Which house is going to be sold?

It is inequitable from the standpoint of the seller. There are many people that have a home for sale that will be disadvantaged and have their property rights taken from them to the extent of a certain amount of the purchase price because the Government is subsidizing unused houses.

How about the equities between purchasers? Suppose there is someone who in 1974 bought a house on a conventional arrangement and they live side by side with someone who buys a house under

this law and then applies for the further subsidy 235.

Now our 235 housing subsidy provides that someone who meets the requirements can buy a house and the Government, because of his income status, subsidizes the payments. It is not unusual to find that subsidy of $75 or $100 a month. This $2,000 additional subsidy is on top of that.

Mr. President, under this program, a purchaser who can qualify might buy a house, the monthly payments might be $185, but because of the Government subsidy those payments are cut in half, or he pays $90 and the balance is a subsidy to him. He is not even required to have a downpayment. He can get a further credit for $2,000 for buying the house. A rather lucky thing for him.

If there is such a purchaser, I am not singling him out for embarrassment or criticism. I am saying that Congress is passing a law that does not treat our people equally; that whether they are buyers or sellers, it gives a subsidy to a certain class that is denied all others.

Mr. President, is it right that if a private owner has the house, for the sake of argument, we find it is almost new, but the circumstances in that family are such it must be offered for sale and the Government of the United States goes in and says, "If you will not buy that house, but buy one that a company has that has never been used, we will give you a $2,000 subsidy."

Mr. President, I am not very hopeful that this amendment will be rejected, but I do believe that it ought to be. I realize there will be our friends in the real estate business who are stuck with some houses. They made a few sales last year because of this and they would like to have it. I found that out when the vote was published in reference to this amendment in the committee. But this is a program that has to end somewhere. We cannot have a one-shot deal and have it go on forever.

It was enacted last time to give the impetus for getting rid of these houses. We have got to consider now, is it just and is it fair? Does it treat our people with equal treatment whether they be sellers or buyers?

Mr. President, I yield the floor and yield to the Senator from Kansas, who wishes to speak, under the time limit.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. DOLE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOLE. Is there a time certain to vote on the conference report on situs picketing?

The PRESIDING OFFICER. The Chair advises the Senator that we are about to reach the point where we vote on the conference report on the situs bill.

Mr. DOLE. May I state that I only have about 5 minutes in opposition to the amendment, unless the Senator from Indiana has further discussion we might have——

Mr. CURTIS. We have another speaker.

Mr. DOLE. We have an additional one on our side. There may be a vote 10 minutes after the other vote.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senator from Kansas be recognized immediately after the vote on the conference report.

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

ECONOMIC RIGHTS OF LABOR IN THE CONSTRUCTION INDUSTRY—CONFERENCE REPORT

The PRESIDING OFFICER. The hour of 4 o'clock having arrived, under the previous order the Senate will now proceed to vote on the conference report on H.R. 5900 which the clerk will state 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 Senate to the bill (H.R. 5900) to protect the economic rights of labor in the building and construction industry by providing for equal treatment of craft and industrial workers.

The PRESIDING OFFICER. 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 New Mexico (Mr. MONTOYA), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. FANNIN), and the Senator from Hawaii (Mr. FONG) are necessarily absent.

I also announce that the Senator from Tennessee (Mr. BROCK) is absent on official business.

I further announce that, if present and voting, the Senator from Hawaii (Mr. FONG) would vote "nay."

The result was announced—yeas 52, nays 43, as follows:

[Rollcall Vote No. 591 Leg.]

YEAS—52

Abourezk	Haskell	Packwood
Bayh	Hathaway	Pastore
Biden	Humphrey	Pell
Brooke	Inouye	Percy
Burdick	Jackson	Proxmire
Byrd, Robert C.	Javits	Randolph
Case	Kennedy	Ribicoff
Church	Leahy	Schweiker
Clark	Long	Stafford
Cranston	Magnuson	Stevens
Culver	Mansfield	Stevenson
Durkin	Mathias	Symington
Eagleton	McGee	Taft
Ford	McGovern	Tunney
Gravel	Metcalf	Weicker
Hart, Gary	Mondale	Williams
Hart, Philip A.	Moss	
Hartke	Muskie	

NAYS—43

Allen	Eastland	McIntyre
Baker	Garn	Morgan
Bartlett	Glenn	Nelson
Beall	Goldwater	Nunn
Bellmon	Griffin	Pearson
Bentsen	Hansen	Roth
Buckley	Hatfield	Scott, Hugh
Bumpers	Helms	Scott,
Byrd,	Hollings	William L.
Harry F., Jr.	Hruska	Stennis
Cannon	Huddleston	Stone
Chiles	Johnston	Talmadge
Curtis	Laxalt	Thurmond
Dole	McClellan	Tower
Domenici	McClure	Young

NOT VOTING—5

Brock	Fong	Sparkman
Fannin	Montoya	

So the conference report was agreed to.

Mr. HATHAWAY. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REVENUE ADJUSTMENT ACT OF 1975

The Senate continued with the consideration of the bill (H.R. 5559) to make changes in certain income tax provisions of the Internal Revenue Code of 1954, and for other purposes.

The PRESIDING OFFICER (Mr. THURMOND). The Senator from Kansas is recognized.

Mr. DOLE. Mr. President, may we have order?

Let me announce to my colleagues——

The PRESIDING OFFICER. The Senator will suspend. We will have to have order before he can speak. The Senate will be in order.

The Senator from Kansas may proceed.

Mr. DOLE. Let me say, for the benefit of my colleagues, that I shall take only about 5 minutes, if my voice will hold out that long. Then I believe there is one other speaker on this side, and then, as far as I know, the Hartke amendment will be ready for a vote.

I rise in opposition to the Hartke amendment because of the diminution of about $200 million in fiscal 1975 revenues. In 1975 the estimated cost of the tax credit was about $600 million, and it is estimated to be about $200 million in 1976.

HOUSING MARKETS

According to the Federal Home Loan Bank Board "Economic Briefs," of October, 14, 1975, private housing starts rose slightly to 1.26 million units at a seasonally adjusted annual rate in August from 1.24 million units in July—the increase was accounted for by single-family units—building permit activity declined to 985,000 units at a seasonally adjusted annual rate in August from 1.04 million units in July. Thus, the housing recovery continues to be quite mild.

New home sales declined further to 521,000 units at a seasonally adjusted annual rate in July from 565,000 units in June. Sales peaked out in May, and the decline through July probably reflects a gradual weakening in the stimulus of the tax credit on sales. As it is, even the spurt in home sales from March through May was disappointing.

TAX CREDIT HAS HAD LITTLE IMPACT

The actual impact of the tax credit is best gauged from the rise in the actual level of new home sales rather than the annual rate. The actual level of sales rose from 44,000 units in March to an average of about 53,000 units per month in April through July, with sales down to 48,000 units in July. Under the extreme assumption that new home sales would not have increased except for the tax credit, we get an add-on due to the tax credit of

35,000 units in the 4 months since enactment of the tax credit. This impact is small when account is taken of the over 300,000 single-family housing units that were probably subject to the tax credit.

That indicates that notwithstanding the great cost, the tax credit for new homes was ineffective.

The positive stimulus of the housing tax credit on sales is less than 35,000 units since some of the improvement in sales over March has been the result of other factors. This includes the improvement in the economy and consumer psychology, assisted by tax rebates, a better housing resale market—dependent on mortgage credit availability—and the large Government tandem programs for both conventional and FHA-VA mortgages. It is disappointing that, with all these factors at work, new home sales have not been doing better.

The major factor constraining new home sales continues to be the general state of the economy and consumer psychology. Various signs of improvement in the economy would be expected to be favorable to housing demand, but the time lag is probably a long one. A home purchase is an extremely large item, and the lingering impact of a severe recession, combined with the impact of inflation on the financial position of households would be expected to constrain any improvement in home sales regardless of credit conditions.

Unfortunately, the rate of inflation is not declining as much as expected during this recession and already gives the appearance of worsening—although by how much is debatable. There is a possibility of a resumption of a decline in real disposable income or a minimal increase that would not represent much of a stimulus to housing demand. A worsening in inflation would also compound the cost problems faced by builders and serve to push up interest rates via the inflationary premium in the interest rate structure.

It begins to appear more and more that builders jumped the gun in increasing single-family housing starts in recent months in anticipation of a sustained improvement in new home sales. Given the weak impact of the housing tax credit, the inventory of unsold homes has continued high, with home sales turning weaker, unsold homes actually rose in July to 383,000 units. This rise was concentrated in units under construction. Total single-family units under construction have been increasing persistently in recent months, and single-family completions have moved up. Under these conditions, a continued recovery in single-family starts will depend upon a resumption of a more favorable trend in new home sales, and this will require both a continued improvement in the economy with no further deterioration in the inflation outlook.

I point up the program will have cost $600 million. It has been ineffective. It has not stimulated sales nor has it depleted inventories.

Mr. HANSEN. Mr. President, I yield myself such time as I may need on the bill.

Mr. President, I rise in opposition to this amendment. I think that the Committee on Finance has made a very good effort in trying to keep to a minimum those problems that should be considered by Congress now.

I commend the distinguished chairman of that committee for his efforts in trying to consider only those issues that appropriately must be addressed now.

There is no question but what this amendment and others that do deserve consideration and deliberation will be called up and considered after the first of next year. But it seems inappropriate to me when we are trying our very level best to try to get some resolution between the White House and Congress to add to that burden by bringing in this sort of an amendment now.

So I hope very much that Senators might join Senator DOLE, Senator CURTIS, myself, and others in rejecting this amendment in order that only those amendments that deal specifically with tax cuts that will expire January 1 may be brought up and considered for action.

I know that this amendment is one of those, but it is not the sort of amendment that is needed or required as is the case with those approved by the Finance Committee.

Mr. HARTKE. Let me say to the distinguished Senator from Wyoming exactly why I offered the amendment, because the provision of the tax cut bill of 1975 provides very simply that this provision does expire on January 1, 1976, unless it is extended.

With the housing industry in a depressed condition at this moment, to remove this one item which has been a success, according to the homebuilders and according to the surveys which have been made, would be an absolute turnaround in the direction in which the President and everyone else has said he wishes the country to go. The purpose of the tax is to stimulate the economy. The purpose of the tax credit is to stimulate the purchases of these homes and the building of others.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HANSEN. Mr. President, if the distinguished Senator from Indiana has concluded, I wish to point out one very fundamental difference. When we change or when we stop the present deductions that are given individuals, it will change the tax reporting for practically every taxpayer in the United States. Those are the provisions that I think appropriately are in the bill before us now.

The only person who this amendment would affect is one who may be intending to purchase a house. I do not minimize at all the importance of homeowners and house purchasers, but I call attention to the fact that the increase in the standard deduction, the tax credit for taxpayers and dependents, and the earned-income credit are the three items that are in this bill here.

I think there is a very significant difference between the appropriateness of our actions on those kinds of deductions and extension for them as is proposed and contemplated in this bill and the sort of amendment that my good friend from Indiana has before us now.

Mr. HARTKE. Mr. President, I point out first that this is the only provision which expires at the end of this year that was not included in the extension of the bill of the Committee on Finanace. It has no effect whatsoever on the fiscal budget of 1976.

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

Mr. HARTKE. It applies only to those homes which were eligible under the old tax bill. In other words, no new homes are added.

Let me say that that is not what I would wish to do. I would wish to extend it across the board, and the committee knows that. The fact of it is, as I introduced this measure originally, I said we are providing for an investment tax credit for business. The two biggest investments of every individual in his lifetime are his home and his car. I would apply it to both of those.

Right now at this time until the end of 1977, there is the 10-percent investment tax credit for any person who invests in new equipment and new machinery in a business. But for the individual who invests his lifetime investment in a new home here is a very limited area in which it has been successful to stimulate homebuilding. It has also reduced the inventories of new homes built. It has made possible to go ahead and have an increase in development of areas where we have new homes, and it is the one saving grace which has provided some type of relief in a period of extremely high interest rates, which has absolutely gone counter to every other economic index in this field. In other words, what has happened is that in a period of high interest rates homebuilding has been the only part of the industry which has even had a nominal recovery. Here to say that we are going to cut this out at a time when it will give a chance to the homebuilding industry to at least try to go ahead and move a little bit forward to me would be the height of ridiculousness at this time.

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

Mr. HARTKE. I am glad to yield.

Mr. BROOKE. I ask the Senator whether he knows if this tax credit has been effective? As the Senator may remember, I made a proposal that we have a $2,000 credit which would be an incentive for homebuyers to buy new homes but that was $2,000 that would have been given to the homebuyer at the time of purchase of a new home as incentive for that buyer to go out and purchase a new home. It was essentially a downpayment assistance program.

The Committee on Finance came out with a $2,000 tax credit program which was different from the program I proposed, but I voted for it.

We had the Secretary of HUD before the Committee on Banking, Housing

and Urban Affairs in an oversight hearing, and we asked the Secretary, in fact, I asked her myself, whether the tax credit program had been effective, and, as I recall, her testimony was that it had been of limited effect. I have had some correspondence with the Secretary on this subject, and I would ask unanimous consent that this correspondence be printed in the RECORD at this point.

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

AUGUST 26, 1975.

HON. CARLA A. HILLS,
Secretary, Department of Housing and Urban Development, Washington, D.C.

DEAR CARLA: Last April, during the hearings on H.R. 8070, the FY'76 HUD Appropriations Bill, I asked if you had directed a study of the impact on the housing market of the $2,000 home purchase tax credit contained in the Tax Reduction Act of 1975 (P.L. 94–12). Your answer indicated that a study was being conducted and that definite results would be available in six months. Now that four months have passed, the general outlines of this study should be taking shape. I would appreciate your tentative assessment of the impact of this program so that I may more accurately judge its effectiveness in reducing unsold inventory.

Similarly, I would appreciate your latest assessment of the first ten months of the GNMA conventional tandem plan under the Emergency Home Finance Act of 1974.

Thank you for your consideration of these requests.

Sincerely,

EDWARD W. BROOKE.

THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT,
Washington, D.C., September 30, 1975.

HON. EDWARD W. BROOKE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BROOKE: Your letter of August 26 asked whether we had reached a tentative assessment of the impact of the $2,000 home purchase tax credit contained in the Tax Reduction Act of 1975 (P.L. 94–12).

We have been gathering empirical data on new home sales market activity and are considering some theoretical implications of the tax credit. The credit still has more than three months to run, and market data are available for only three or four months since passage of the Act, so any assessment must be very tentative. Our impressions may change with further analysis of the data; at present they are as follows:

Although both new and existing house sales were increasing in February and March, before passage of the Act, the availability of the tax credit may have given an additional boost to new single family house sales in April, as they rose 23 percent while existing (previously occupied) house sales, without benefit of a tax credit, rose 6 percent. However, new house sales usually are more volatile than existing house sales, so the new house movement may not have been unusual.

The increase in new single family house sales slowed in May to only 4 percent and then fell about 5 percent in June with a further decline of almost 8 percent indicated in July. Existing house sales continued to increase slightly in May and June before turning down less than 4 percent in July. Thus the April spurt in new house sales may have represented a borrowing from future sales as buyers came into the market a little earlier than they otherwise might have.

The sharp increase in new single family house sales in April occurred entirely in completed houses and houses under construction, that is, those houses eligible for the tax credit. At the same time sales of ineligible houses, those not yet started, did not increase at all. The tax credit may have shifted some sales from non-eligible units to eligible units; to the extent that occurred, total sales were not increased.

The unsold inventory of completed new single family houses for sale has declined to about 130,000 from a record high of 147,000 houses in January and February, and 145,000 in March, so that the tax credit may have been of some help in unburdening the heaviest part of builders' inventories. Unsold houses under construction declined from 198,000 units in January to 189,000 in March (before the credit) and 188,000 in April. Since then this part of the unsold inventory has risen back to January levels as single family housing starts have picked up. The "authorized by building permit but not started" part of the sale inventory has declined from 58,000 houses in January and February, to 55,000 in March, and about 54,000 houses in the latest reported month. On balance, builders have had a small improvement in inventory over the period.

Another measure of the impact of the tax credit is in the proportion of new houses sold which were eligible for the tax credit by virtue of being started before March 26 (the available data report only on starts before the end of the month). In April about three-fourths of the houses sold appear to have been eligible for the credit, while one-fourth were not. In May about 69 percent of those sold were started before the end of March, and 31 percent of sales were started after March or were not yet started. The eligible proportion declined further in June to 60 percent of sales, with 40 percent not eligible. If the trend continues the tax credit impact will diminish further.

As noted earlier, these conclusions are tentative and subject to revision with further analysis of current and future data. Unfortunately we have no data on condominium sales or mobile home sales and are unable to assess the impact on these forms of housing production. Fragmentary and impressionistic reports suggest that these may be faring less well than new single family houses. Shipments of mobile homes from manfacturers to dealers have not recovered quite as well as single family starts, even though dealers were reputed to have lean inventories so that a pick-up in sales would show up shortly in shipments. The tax credit may have had even less impact in these areas than in new family conventional houses.

Your letter also asked for an assessment of the first ten months of the GNMA conventional tandem plan under the Emergency Home Purchase Assistance Act of 1974. As you know, delivery of mortgage loans under the tandem plan lags behind commitments. All moneys authorized, $6.9 billion, have been committed since October 1974, including the most recent program of $2.0 billion. Of the first $4.9 billion in commitments, $871 million in mortgage loans have been delivered. We are in the process of initiating a lenders reporting system, and hope to have preliminary results on the conventional tandem plan available by late October. I will be happy to provide you with that material when it is available.

Sincerely,

CARLA A. HILLS.

Mr. BROOKE. Does the Senator from Indiana have any evidence or any data that this has been an effective program?

Mr. HARTKE. Yes. The National Association of Homebuilders conducted a survey. They said that the tax credit was responsible for the sale of about 40 percent of all the units which qualify under the program. That is pretty tremendous success. The fact of the matter is another survey indicated that 43 percent of the sales would not have occurred except for the tax credit provision.

Mr. BROOKE. The Senator will agree that these, I will not call them gimmicks, but these incentives are good when used for a short period of time. But when used for a long period of time, then they cease to be an incentive. I am wondering whether the Senator is satisfied that this has been an effective program and would continue to be an effective program if extended for another 6-month period.

Mr. HARTKE. In my judgment, as far as I am concerned, it is not only an effective program, but it should be extended across the board. It is the one type of provision which would give the same type of tax relief to the individual for his big investment in his lifetime, the same as we do to a businessman. In other words, if business can justify a 10-percent investment tax credit, certainly then we ought to justify an investment tax credit for the person who buys a new home, his one single investment in his lifetime.

I am prepared to vote.

Mr. WILLIAM L. SCOTT. Mr. President, will the Senator yield for a question?

Mr. HASKELL. Mr. President, will the Senator from Indiana yield?

Mr. HARTKE. I am glad to yield.

Mr. WILLIAM L. SCOTT. I notice on the "Dear Colleague" letter on my desk and remember the Senator's statement that the amendment has no fiscal impact for fiscal year 1976. I do not understand that. The people who buy new homes would pay less taxes.

Is that accurate? They would get a credit?

Mr. HARTKE. It would have an effect in the calendar year, but it would not have any effect on fiscal year 1976—or very minimal, at best.

Mr. WILLIAM L. SCOTT. Would it not have an effect for 6 months, from January 1 until June 30?

Mr. HARTKE. No. The effect of that is very simply that the tax cut comes at the end of the year. But it does not have any effect, or a very minimal effect, on fiscal year 1976. This bill is specifically directed to the budget committee instructions, according to the chairman of the Budget Committee, as a reconciliation bill. I am not exactly in agreement with that, but that is the way the bill is being handled on the floor of the Senate. It is a reconciliation bill; and so far as fiscal year 1976 is concerned, it has no effect upon the budget.

Mr. WILLIAM L. SCOTT. Would the Senator say that it would have an effect upon fiscal year 1977?

Mr. HARTKE. Yes.

Mr. WILLIAM L. SCOTT. I thank the Senator.

Mr. HASKELL. Mr. President, will the Senator from Indiana yield, or will whoever is in charge of the time in opposition yield me about 5 minutes?

Mr. DOLE. I yield 5 minutes.

Mr. HASKELL. I thank the Senator.

Mr. President, the Senator from Massachusetts asked the question as to the effectiveness of this particular tax credit. I have in my hand a communication

from the Director of the Budget Office to Representative Gibbons, dated November 20, 1975, specifically on that subject matter. I shall read to the Senator from Massachusetts this short paragraph:

> The impact of the home purchase tax credit is very difficult to measure, because it cannot be isolated from other factors at work in the housing industry during the same period.

The next sentence is the important one:

> As far as can be determined from the available evidence, however, the credit has had little or no impact on the inventory of unsold new houses, new home sales, housing starts, or construction industry employment.

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

Mr. HASKELL. I should like to finish.

This tax credit goes to people whether they bought the house because of the credit or not. Since it goes to people who buy new houses, it goes, by and large, to people with more money.

With respect to this business of people who are or are not going to buy houses, I should mention that last year, when I got home, I found one of my daughters and her husband absolutely jubilant. The reason for the jubilation was that they were going to buy a house, and all of a sudden they found that Congress had given them a tax credit. This is a personal experience which illustrates why these types of incentives do not work.

If we want to help housing, we should subsidize interest. If we want to help housing, we should adopt some kind of mortgage system with a balloon payment on the end.

My feeling is that this credit, at best, is a windfall for people who are going to do something anyway, and I hope that my colleagues will vote against it.

I yield to the Senator from Indiana.

Mr. HARTKE. In the first place, the Senator cannot be consistent by being for the investment tax credit for business and being opposed to housing credit for an individual. He cannot be consistent if he is going to say that he is going to give business a tax credit of 10 percent when he is only going to give a home purchaser a credit of 5 percent, with a limit of $40,000, when there is no limit whatsoever on the businessman.

In the letter which was read by the Senator from Colorado—from whomever he said it was—he states definitely that it is very difficult for him, or for them, to assess. They say it is from available evidence, which they do not quote.

I will give the Senator evidence, which I will quote, from people I think are most reliable in this field, the National Association of Homebuilders, the people directly involved, and they say this accounts for 43 percent of the inventory in houses up until September 1 of this year.

The Wall Street Journal has a long article, which I put into the RECORD, indicating that it has been a tremendous success and one of the saving graces in the homebuilding industry.

The law expires on January 1, and all I am asking is exactly what we are doing in the rest of this bill, saying that those provisions which expire on the 1st of January, 1976, should be continued in effect until we have had a chance to analyze them in conjunction with the request of the President, in conjunction with what our own budget committee has said, and that on July 1 of the coming year we will have a chance to reassess the whole matter.

Mr. HASKELL. I will take 2 minutes, if I may, from the Senator from Kansas.

This amendment is giving the credit to some people who are going to buy homes anyway. It is an indirect way, at best, of increasing home sales. It is a chancy way.

The Senator from Indiana says, "How can you be for the investment credit for business and not be for this?" The answer is that I am not for the investment credit for business. It is a simple check from the U.S. Government to those people who happen to be in the business of buying and using equipment. It distorts the business marketplace against people in other lines of business.

I think this measure is ill-advised, because it picks on just one segment of the housing industry and gives it a subsidy through the back door.

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

Mr. HASKELL. If I have time.

Mr. BROOKE. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. BROOKE. Mr. President, I thank the Senator from Colorado for the data from the Budget Office.

Was that from the Budget Office?

Mr. HASKELL. The Senator is correct.

Mr. BROOKE. The information indicates that this tax credit has not been effective. The Senator from Indiana says he has data from the homebuilders to the effect that it is responsible for 43 percent of new housing construction, as I understand it.

As I said, we had the Secretary of HUD at an oversight hearing, and she said that it had limited effect.

Had this tax credit been a refundable tax credit—and I urged that upon the chairman of the Committee on Finance when we passed this provision—it may have been effective; because it would have put money into the hands of the prospective new home purchaser at the time he bought his home rather than at the end of the tax year.

I do not like to see us extend legislation which is ineffective. I am not sure that we are going to stimulate much new housing production by extending this tax credit. I want to be sure of that, because many of us are in doubt as to how to vote on this extension. If, in fact, this has worked, if it has been effective, then there might be a need to extend it for 6 months. The housing industry is still in bad shape. If it has not worked, if it is not effective, if it is not doing the job, then I think we are spending money uselessly.

I would like the Senator from Indiana to address himself to that issue, if he will.

Mr. HARTKE. Mrs. Hills, when she testified, did not give any information as to her conclusion, but she did give a statement about the number. The percentage of homes that were sold during this period was approximately 10 percent of the total. I do not know what she is quoting, where she is getting her conclusion. I have no idea.

The fact is that we challenged these figures. We have asked for them, but HUD has not been able to come up with any substantiation of their conclusion. The National Association of Homebuilders is the only group I know of which has conducted a survey out in the field. That survey is in the RECORD. I am trying to get a copy of it.

Mr. BROOKE. What is the basis of the data that the Senator from Colorado gave us, from the Budget Office?

Mr. HARTKE. This is what Mrs. Hills said. She said that the Federal Home Loan Bank Board reported on 3,500 of the 300,000 homes sold—she is talking about total sales—3,500 of the 300,000 homes sold, after the credit was implemented earlier this year, were effective.

I have a copy of the Wall Street Journal article of May 12, 1975, which is written by Ronald Schaeffer and Mark Star. It says:

> Uncle Sam appears to have offered new homebuilders an incentive they cannot refuse, and so the Nation's homebuilders are starting to unload an inventory that has amounted to 650,000 unsold homes.

Mr. DOLE. What is the date on that?

Mr. HARTKE. "The recently enacted tax credit of up to $20,000 on a new-home purchase has buyers suddenly snapping up houses they spurned for months, the builders say."

This was early in May. It says:

> . . . sold a surprising 23 percent of the houses and condominiums in their combined backlogs just in the first 30 days after the tax incentive went into effect March 30. What's more, these builders expect to sell 65 percent of their original inventory within the next 60 days to 90 days. Most trace the sales turnaround to the tax credit.

Mr. DOLE. Does the Senator from Indiana yield?

Mr. HARTKE. I am glad to yield.

Mr. DOLE. What is the date on the information in the report the Senator was reading from?

Mr. HARTKE. May 12.

Mr. DOLE. Did I understand the Senator from Indiana correctly as saying that it would have no economic impact on fiscal year 1977?

Mr. HARTKE. This information was submitted in the Committee on Finance, that it would have no effect upon fiscal 1976.

Mr. DOLE. What about fiscal 1977?

Mr. HARTKE. I said it would have some effect on fiscal 1977.

Mr. PASTORE. Will the Senator yield to me?

Mr. HANSEN addressed the Chair.

Mr. HARTKE. If I am through with the Senator from Kansas, yes.

Mr. DOLE. It would be about $200 million in fiscal 1977?

Mr. HARTKE. Right.

Mr. PASTORE. It strikes me, Mr. President—I am not a member of this committee and I think it would be hard to determine whether or not anyone bought a house just because they got a tax credit. But it strikes me that if we give a boon of $2,000 credit to anyone who buys a house, it makes it easier for

that person to buy a house. If it is easier for a person to buy a house, it is going to be easier for him to sell a house. If it is easier to sell a house, that makes it easier to build a new one.

I do not know how we are going to get precise figures indicating that somebody bought a home only because of the tax credit. I think somebody bought a house because he wanted to buy a house and, because they get a $2,000 break, it is easier to buy the house. I repeat, if it is easier to buy the house, it is easier to sell the house, and if it is easier to sell that house, it is always easier to build another one.

I do not know what we are talking about here. If this causes financial havoc, that is one thing to discuss. But we have been arguing for an hour, to and fro, as to whether or not somebody buys a house because of the tax credit. I do not think we are ever going to find that out. We would have to look into a person's mind, we would have to look into the circumstances. But the mere fact that he gets a break means that, of course, he is more apt to buy that house. To me, it is fundamental.

If we cannot afford it, that is one thing. But on this idea we are arguing back and forth as to whether or not it is an incentive, I do not think we are ever going to learn precisely.

Mr. DOLE. Will the Senator yield?

Mr. PASTORE. I do not have the floor, but I shall yield.

Mr. DOLE. Although there may be some uncertainty regarding the incentive aspect, we do know that the provision cost about $600 million in tax year 1975 and may cost as much as $200 million in tax year 1976. So if we do not know whether it has had any impact—and the First National City Bank of New York says it is one of the worst-thought-out provisions of the Tax Reduction Act—we ought to take another look at it.

Mr. CHILES. Will the Senator yield?

Mr. PASTORE. Now, let me answer the question. The point is, as has been brought out here, the homebuilders have said that they were able to sell that house much easier only because of this. That is very significant to me. I mean, they are the people on the ground floor. They do not deal with statistics in an ivory tower. They are right on the ground.

The point was made here about the investment credit. We have also argued here that we give it and I was for making it permanent. I was for raising it to 12 percent instead of 10 percent. The point there was that it would make jobs.

How do we ever know? Maybe if they buy new equipment it makes it easier for the people already working there to keep their jobs. We do not know that for sure. But we do it because we think it is an incentive. I think any time we give anybody a break, at least we have the seed there for an incentive.

Mr. CHILES. Will the Senator yield?

Mr. PASTORE. Yes.

Mr. CHILES. I think the Senator from Rhode Island——

The PRESIDING OFFICER. Who yields time?

Mr. PASTORE. Who has the time here?

Mr. HANSEN. It depends on which side you are on.

Mr. HARTKE. I yield a couple of minutes.

Mr. CHILES. I think the Senator from Rhode Island makes a very good point. In Florida, we have 75,000 condominiums that are unsold. Now, we also have unemployment in construction of probably 24 percent. Those people cannot go back to work as long as we have 75,000 unsold condominiums. One of the best features that has been helping clean out some of that inventory has been the tax credit.

There are full-page ads, and I can say it has stimulated some newspaper ads. It stimulated a lot of buying, stimulated a lot of real estate people to go out and try to get people to put their money in. That has paid off some in my State.

I cannot say about any other State, but this provision has been one of the best things we got out of the last tax bill.

Then it took a while before we could correct it, because we had some kind of problem as to whether the property had ever been sold at a lower price. We got that corrected. When we did that, if we say there was a slight effect as it started, much of that is because there was a hiatus time in there and people did not know whether they could use this plan or not.

It is working well in my State. I should like to see it extended, because I can say it is helping make jobs for the people in the State of Florida. I do not think it is costing dollars. I think as we generate that payroll, as we generate all the taxes from that, that is better than having somebody drawing the food stamps, drawing unemployment compensation, drawing the welfare payments. I would rather have him be a taxpayer. So I think it is a very positive thing. I am sure to vote for the extension.

Mr. HASKELL. Will the Senator yield?

Mr. HANSEN. Before yielding to the Senator from Colorado, I want to make one observation. The reason that this amendment has no impact on fiscal 1976 is that the amendment does not address the law except after January 1, 1976. When a person buys a home then, unlike the withholding tax, which is kept out of the paycheck and does have an impact on the Treasury receipts as the thing moves along, this sort of investment tax credit is applied for after the end of the calendar year 1976.

I yield such time as the Senator from Colorado may desire.

Mr. HASKELL. I thank my friend from Wyoming. On the cost of this credit and how much, really, this benefits the housing market, I should like to throw in a couple of facts.

The estimated revenue lost is approximately $700 million. That is contained in this budget committee summary that I referred to before.

Now, as far as how many home purchases it may have stimulated, I refer my colleagues to a publication by the Federal Home Loan Bank Board dated October 14, 1975. This publication estimates that additional single-family units sold by virtue of this tax credit are 35,000 for 6 months. If we double that for 1 year to 70,000 and divide that into $700 million, we get $10,000 per additional house. That is a pretty expensive subsidy.

With that, I yield the floor.

Mr. CHILES. Will the Senator yield?

Mr. HASKELL. I yield the floor.

The PRESIDING OFFICER. All time in opposition to the amendment having expired, the Senator from Indiana has 3 minutes.

Mr. CHILES. Three minutes of the time on this side. I wish to be able to understand that mathematics.

If we only get a tax credit of $2,000, how can the Senator charge $10,000 per house? Or conversely, if it costs $700 million, then how many houses did they sell? This is the way my mathematics would go: if it is, again, $2,000 per house, if it costs $700,000, then we would have to have sold 350,000 homes. That would be pretty good.

Mr. HANSEN. Would the Senator go through those figures again? I do not think he said what he meant to say.

Mr. HASKELL. Mr. President, will the Senator from Florida yield to me?

Mr. LONG. I yield to the Senator 3 minutes.

Mr. HASKELL. If I may respond to my friend from Florida, the figures developed by the Federal Home Loan Bank Board say that for a period of 6 months the additional units, the ones that would not have been sold except for the credit, are 35,000.

Mr. CHILES. May I ask the Senator——

Mr. HASKELL. Excuse me, let me finish. Annualize that and you get 70,000 additional units due to this particular provision of the tax law.

The total revenue loss is estimated at $700 million.

Now, if you put 70,000 into $700 million you get $10,000. That is the cost to the Government of each additional house.

What the Senator was saying is that a lot of houses have been sold, so a lot more people have gotten credit. That is true but there are a lot of those people like my son-in-law and daughter, who were going to buy a house anyway, and so they got a credit.

Mr. CHILES. The Senator from Florida prefaced his statement by saying he wanted to report some facts to the Senate.

Mr. HASKELL. Yes.

Mr. CHILES. And then he gave us an estimate of the Home Loan Bank Board and someone else. That is not a fact, that is somebody's guess.

Mr. HASKELL. As things go in this world I would say that is a fact. [Laughter.]

Mr. DOLE. Mr. President, will the Senator from Colorado yield? In that same report by the Federal Home Loan Bank Board I might just quote one sentence which says:

> Under the extremist assumption that new home sales would not increase except for the tax credit, we get an add-on with the tax credit of only 35,000 units.

That is an extreme assumption, so I guess, to be more realistic, it would be even less than 35,000 units, by far.

Mr. RANDOLPH. Would the Senator yield?

Mr. HARTKE. I am happy to yield to the distinguished Senator from West Virginia.

Mr. RANDOLPH. Mr. President, I wish to offer my support to the Senator from Indiana (Mr. HARTKE) on this amendment. The housing industry is in a state of severe depression. Normally as the U.S. economy pulls out of the depths of recession the housing industry leads the way. But this is not the case today. The economy appears to be pulling out of its deep recession, however hesitantly, but housing construction is still depressed. This housing tax credit is partially responsible for the minimal increase in home sales and construction which has occurred since March. To remove it now, when some economists foresee a decrease in home construction, would be most unwise.

Mr. President, I strongly favor continuation of the housing tax credit consistent with the philosophy of the Revenue Adjustment Act. I commend the Senator from Indiana on this effort and I ask him if I might be added as a cosponsor of the amendment.

Mr. HARTKE. Mr. President, I thank the Senator for his comments and support, and I would be honored to have him as a cosponsor on this amendment. I ask unanimous consent that Senator RANDOLPH be added as a cosponsor to amendment No. 1255.

Mr. President, I understood the time of the opposition had expired. I do not mind these people going ahead and talking, but why do we not go ahead and vote?

The PRESIDING OFFICER. All time on the amendment has expired. The question is on agreeing to the amendment of the Senator from Indiana.

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 Indiana (Mr. BAYH), the Senator from Washington (Mr. JACKSON), the Senator from New Mexico (Mr. MONTOYA), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) would vote "yea".

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. FANNIN), the Senator from Hawaii (Mr. FONG), and the Senator from Arizona (Mr. GOLDWATER) are necessarily absent.

I also announce that the Senator from Tennessee (Mr. BROCK) is absent on official business.

The result was announced—yeas 48, nays 44, as follows:

[Rollcall Vote No. 592 Leg.]

YEAS—48

Allen	Eastland	Leahy
Beall	Ford	Long
Bentsen	Glenn	Magnuson
Brooke	Gravel	Mansfield
Byrd, Robert C.	Hartke	Mathias
Cannon	Hatfield	McGee
Case	Hathaway	McGovern
Chiles	Huddleston	McIntyre
Church	Humphrey	Metcalf
Cranston	Inouye	Mondale
Dole	Javits	Morgan
Durkin	Johnston	Moss
Nelson	Randolph	Stone
Packwood	Ribicoff	Tunney
Pastore	Stafford	Weicker
Pell	Stevens	Williams

NAYS—44

Abourezk	Griffin	Proxmire
Baker	Hansen	Roth
Bartlett	Hart, Gary	Schweiker
Bellmon	Hart, Philip A.	Scott, Hugh
Biden	Haskell	Scott, William L.
Buckley	Helms	Stennis
Bumpers	Hollings	Stevenson
Burdick	Hruska	Symington
Byrd, Harry F., Jr.	Kennedy	Taft
Clark	Laxalt	Talmadge
Culver	McClellan	Thurmond
Curtis	McClure	Tower
Domenici	Muskie	Young
Eagleton	Nunn	
Garn	Pearson	
	Percy	

NOT VOTING—8

Bayh	Fong	Montoya
Brock	Goldwater	Sparkman
Fannin	Jackson	

So Mr. HARTKE's amendment (No. 1255) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HARTKE. Mr. President, I move to lay that motion to reconsider on the table.

Mr. DOLE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the motion to lay on the table the motion to reconsider the vote by which the amendment was agreed to. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Washington (Mr. JACKSON), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Mexico (Mr. MONTOYA), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. FANNIN), the Senator from Hawaii (Mr. FONG), and the Senator from Arizona (Mr. GOLDWATER) are necessarily absent.

I also announce that the Senator from Tennessee (Mr. BROCK) is absent on official business.

The result was announced—yeas 50, nays 41, as follows:

[Rollcall Vote No. 593 Leg.]

YEAS—50

Abourezk	Clark	Huddleston
Allen	Cranston	Humphrey
Beall	Durkin	Inouye
Bentsen	Eastland	Javits
Brooke	Ford	Johnston
Byrd, Robert C.	Glenn	Leahy
Cannon	Gravel	Long
Case	Hartke	Magnuson
Chiles	Hatfield	Mansfield
Church	Hathaway	Mathias
McGee	Nelson	Stevens
McIntyre	Packwood	Stevenson
Metcalf	Pastore	Stone
Mondale	Pell	Tunney
Morgan	Randolph	Weicker
Moss	Ribicoff	Williams
Muskie	Stafford	

NAYS—41

Baker	Griffin	Proxmire
Bartlett	Hansen	Roth
Bellmon	Hart, Gary	Schweiker
Biden	Hart, Philip A.	Scott, Hugh
Buckley	Haskell	Scott, William L.
Bumpers	Helms	Stennis
Burdick	Hollings	Symington
Byrd, Harry F., Jr.	Hruska	Taft
Culver	Kennedy	Talmadge
Curtis	Laxalt	Thurmond
Dole	McClellan	Tower
Domenici	McClure	Young
Eagleton	Nunn	
Garn	Pearson	
	Percy	

NOT VOTING—9

Bayh	Fong	McGovern
Brock	Goldwater	Montoya
Fannin	Jackson	Sparkman

So the motion to lay on the table the motion to reconsider was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

PRIVILEGE OF THE FLOOR

Mr. HARTKE. Mr. President, I ask unanimous consent that Mr. Pursley of Senator STONE's staff be accorded the privilege of the floor during the consideration of this measure.

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

Mr. CURTIS. Mr. President, on behalf of myself, Senators DOLE, ROTH, GRIFFIN, HRUSKA, PACKWOOD, HUGH SCOTT, YOUNG, GARN, TAFT, LAXALT, THURMOND, and BAKER, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Nebraska (Mr. CURTIS) for himself and others proposes an amendment.

The amendment is as follows:

At the appropriate place, insert the following:

"SEC. —. Limitation on Federal Spending.

"Notwithstanding any other provision of law, or rule of law, or of this Act, Federal outlays for the fiscal year beginning October 1, 1976, shall not exceed $395 billion."

Mr. CURTIS. Mr. President, we hope to dispose of this amendment very shortly.

What it does is it takes the President's figure that he wanted a ceiling on next year's spending, fiscal 1977, that begins the 1st of October of $395 billion.

There are those who feel that we should cut taxes irrespective of spending or spending ceilings. There are those who feel that we should not cut taxes, even though it is an extension of existing cuts, without some brake on future spending.

I also wish the members of the Committee on the Budget to realize that all the rest of us appreciate the hard work that they have done, their dedication, the way they have wrestled with these figures, and their desire to establish the committee in a strong and appropriate place in this Senate.

But I do not believe that this proposed

amendment flies in the face of good budget procedure or what the Budget Committee wishes to do.

Budget ceilings are in reality targets. That is the reason that the law itself provides for a second concurrent resolution. We do not do violence to the right of the Budget Committee to work their will when the time comes a few months from now by saying in advance "if we are going to have this tax cut, we favor a ceiling on spending for this next fiscal year."

According to the Office of Budget and Management, if all of these programs that we have now and all of the calculations for increases by operation of law, by inflation, by other matters are added up, we will be faced with spending in fiscal 1977 of about $423 billion. That is a lot more than the current one of about $375 billion.

It is important that we practice economy, but we can shave here and there and cut a little bit. We would have a hard time adding up $2 billion. If we are going to bring this budget under control we have to look at the authorization laws; we have to establish some priorities.

Frankly, I am convinced that we can do it and still do justice to the poor, the disabled, and those people not able to fend for themselves. The United States is rich enough to take care of the unfortunate.

I believe as to those benefits that go to the able bodied and to the people who are not of advanced age and are on those, we are going to have to look at and establish some priorities. Some of them we may have to change, postpone, or something else.

If we are going to cut taxes—we do not know what we will have when we come back from conference with the House—this bill calls for a cut of $6.4 billion. That is a lot of money. The Secretary of the Treasury tells me that they are having to pay interest of about 8 percent on money now. Of course, that is not the average. Take 6 percent. At 6 percent interest on the national debt, if we cut taxes by $6.4 billion, without reducing expenditures, we will increase the interest load on the people of the United States by over a million dollars a day. If we cut taxes without a comparable brake on spending, and that cut would remain to the Senate figure of only $6.4 billion, $6.4 billion at 6 percent, figures out to more than $1 million a day.

And that is the issue. The issue is not, is this a nice time to do it. The issue is not, must we wait until April. The tax bill is before us now. It is now that the Senate is proposing to cut taxes. At this same time, we should put a limit on spending.

I said a moment ago that we can save certain amounts by economies here and there. Those should be carried out. But as to the big amounts we have to change the law, or modify it in some way. That takes time, and that is the reason for the leadtime.

I hope that the members of the Committee on the Budget would not view this setting of target incorrectly. This pledging ourselves to the proposition that we are going to cut expenses by reason of the passage of this Tax Act is not in opposition to the Budget Committee. I do not believe it is. I believe that it is good planning. If we are going to cut spending down the road in fiscal 1977, now is not too early to plan on it. Now is not too early for committees to look over programs under their jurisdiction and say:

> Here, how can we take care of the essentials, how can we carry out the commitments of our people for such contractual things as Social Security, how can we take care of the unfortunate and the poor, and keep afloat?

I believe it can be done. I believe that this country can meet its fiscal problems.

Mr. President, the United States will not go bankrupt, because we have the power to create money. But what will happen is more and more inflation. If we go on cutting taxes in the face of a deficit of more than $70 billion, does anyone think that that is going to revive our economy? Does anyone believe that that will cause an investor to back a patent that might start a new activity that will create jobs? Does anyone feel that to have no restraint on spending will create such confidence in the country that individuals will buy, that they will plan, that they will contract? I think not. I believe that the way to restore full employment in this country is to restore financial and budgetary responsibility here in Washington.

So I hope that those who have strong feelings about the operation of the Budget Committee will not regard this as an intrusion upon their domain or their jurisdiction. It is proposed today because today is the day we are cutting taxes, and that is the time to say that we should not do this unless we cut expenditures.

If someone believes that inflation is not a threat, if someone believes that there is nothing to this, that we can go on with our spending and cut taxes, they may be right. I do not know. But I think that cannot be done. I believe that we will help the Budget Committee. I believe that by announcing this target, this desire, this determination not to let expenditures grow next year more than $20 billion, we are indicating that we are not going to do that. Even that will be a hard job for the Committee on Appropriations.

Some of us, when the time comes, will want to cut more. Some of us will fight for a balanced budget. But this is a compromise. This says that if we are going to cut taxes, let us not let this expansion go more than up to here.

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

Mr. CURTIS. I yield.

Mr. GRIFFIN. Mr. President, the Senator is making the point that I want to emphasize, and that is that we are talking about a cutback in the level of spending as we know it today. We are talking about a cutback of the projected growth of spending.

As I understand it, if we do not set a ceiling of $395 billion as anticipated by the Senator's amendment, we can look forward to an increase in spending on the order of 15 percent or more. What we are talking about here is limiting the growth of Federal spending to 7 percent instead of 15 percent. We are talking about limiting the Federal deficit for next year to $50 billion instead of $70 billion or more.

Should we not make the point that although we talk about a spending ceiling of $395 billion, there is nothing whatsoever to prevent Congress from holding it below that figure, if it sees fit to do so?

Mr. CURTIS. The distinguished Senator is correct on all points.

This is a compromise in which we set some objective. We can go below. I hope we can. Perhaps the economy will bring in more revenue. Perhaps we can do some things that we do not see clear to do now.

Also, the distinguished Senator makes a very valid point. It is difficult to take money away from an individual, a community, or a group after it is once appropriated. We are in the midst of the year. This merely says, "Let us slow up the growth. Instead of letting the budget grow by 15 percent, let us hold it back to 7 percent—a maximum." We all could make our fight to make it less, and I am sure that many on the Budget Committee will do that very thing.

Mr. WILLIAM L. SCOTT. Mr. President, will the Senator yield?

Mr. CURTIS. I yield.

Mr. WILLIAM L. SCOTT. Do I correctly understand that the Senator's amendment is to put a ceiling on spending of $395 billion?

Mr. CURTIS. Just about. It is not to exceed $395 billion. It is not an approval of $395 billion.

Mr. WILLIAM L. SCOTT. What is the anticipated revenue for this fiscal year?

Mr. CURTIS. Approximately $301 billion.

Mr. WILLIAM L. SCOTT. I probably spoke of a $20 billion figure. Are we not saying that if we have the same revenue next year as we have this year, there will be about a $95 billion deficit?

Mr. CURTIS. The projections are certion increases in revenue and certain offsets from this reduction. I think that unless we are very diligent, there is a danger of an increased deficit. That is why I say, as a minimum, let us put on our brakes to this extent.

Mr. WILLIAM L. SCOTT. I probably will vote against the Senator's amendment, not because I do not want to see a ceiling, but because I believe the ceiling is too high. I have the greatest confidence in the Senator from Nebraska but I would make the ceiling lower than it is in his amendment.

Mr. CURTIS. If the Senator's position prevails, then we cut taxes without any restraint. If the pending amendment prevails, then we have some restraint, and we can work for as much further as possible. It is not to exceed $395 billion.

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

Mr. CURTIS. I yield the floor.

Mr. DOLE. I say, in response to the Senator from Virginia's comment, that the projected revenues will be about $350 billion.

The PRESIDING OFFICER. Who yields time?

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

Mr. CURTIS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 13 minutes.

Mr. CURTIS. I yield the Senator such time as he wishes.

Mr. DOLE. The projected revenues are about $350 billion, rather than $301 billion for this fiscal year, so we are not talking about a deficit of approximately $90 billion. It is still a very high deficit. If the amendment of the Senator from Nebraska should be rejected, then there is no ceiling at all.

Mr. WILLIAM L. SCOTT. I say to the distinguished Senator that if he will look at the record—he may be better informed on this matter than I am—however, in recent years we have not an increase in revenue anywhere near the $50 billion figure the Senator indicates. Even now we are discussing cutting taxes, and I cannot see how we are going to substantially increase revenue in the next fiscal year.

Mr. DOLE. Mr. President, I think we are in a period of economic recovery. I say to the Senator from Virginia that revenues can rise very rapidly at such time.

To speak more specfically, if we do nothing to restrain Federal spending in fiscal year 1977, we can have an expected increase of $53 billion. We are talking about increases in civilian and military salaries, retirement benefits, social security, railroad retirement, medicare and medicaid, public assistance, food stamps, major construction of water treatment plants now underway. Budget outlays for this fiscal year are in the neighborhood of $370 billion. Without specific legislative action to limit spending, outlays in fiscal year 1977 will reach $423 billion or more.

There will probably be more without some legislative restraint.

Cutting the budget by $28 billion would result in spending of about $395 billion in fiscal year 1977. This is still $25 billion above the level of expenditures for fiscal year 1976. So there is some flexibility. We are not cutting back below 1976 fiscal year levels; we are adding $25 billion in new spending authority; so there will be some growth. As the Senator from Nebraska and the Senator from Michigan have pointed out, all we have attempted to do is slow the growth.

As a member of the Committee on the Budget, I can understand the pain and anguish of the members of that committee. I can understand, having cross-examined the Budget Director, Mr. Lynn, myself, at some length earlier this year, that it is difficult for us to operate and to make a judgment when we do not know where they are going to recommend cuts. But I have concluded that, in the interest of fiscal responsibility, we should take a look at the President's ceiling. The President has not arbitrarily set a ceiling. He has set a ceiling and has gone to the departments and the agencies. They are now trying to see what they can do to pare down expenses. I think we need some guidance and direction now from Congress to make it work.

I add one other note. If we look at the election returns in San Francisco, we may have some revelation, because there, where both candidates took a cold, calculated stand against more spending in a very liberal—the most liberal—city in America, with a 3-to-1 Democratic registration. The Republican lost by about 4,000 votes.

I might add that the Democratic candidate who was successful came out strong against excessive spending and indicated to the electorate that it was time we took a look at where we are heading.

Everyone is concerned about what happened in New York. They are concerned in San Francisco. We should be concerned about what could happen in the Nation.

With reference to the comment of the Senator from Virginia, I know there are others who share that view. Maybe $395 billion is too high. That is the reason the amendment says "not to exceed $395 billion." I doubt that we can do any better. I frankly doubt that we can do that well. But if, by amendment, we bind Congress to stick to $395 billion, it is the view of the Senator from Kansas that the country will be much better off for it.

I might add that the only way we can change it is through legislation. The President cannot do that. That is Congress' responsibility. That is our responsibility. If we are going to look at increases in programs, whatever they may be, whether they are in defense, medicare, medicaid, waterways, agriculture—whatever—only those of us in Congress can change that program.

I might say that one committee that is making an effort at oversight is the Committee on Agriculture, under the chairmanship of the distinguished Senator from Georgia. That committee will start early next year taking a look at all the programs under the jurisdiction of the committee to see if they cannot make proper cuts.

The Senator from Kansas believes that, though it is going to be very difficult, the $395 billion ceiling can be achieved. We can slow the growth. We are not seeking to cut back the growth; we are seeking, as I have indicated earlier, fiscal responsibility. Therefore, I not only support the amendment, but have cosponsored the amendment.

Mr. WILLIAM L. SCOTT. Mr. President, will the Senator yield briefly?

Mr. CURTIS. I yield 2 minutes to the Senator from Virginia.

Mr. WILLIAM L. SCOTT. I appreciate the Senator's yielding. Certainly, I share his concern, the concern he has always expressed, about the mounting Federal debt and the amount of money that we spend on various programs. I am also in agreement with the thought of practicing fiscal responsibility that my distinguished friend from Kansas has mentioned.

It seems to me that the proper approach is to vote against the bills as they come before us, bills to expend more money. I just do not believe that the Government is going to have revenue approaching $350 billion in the next fiscal year. Therefore, in setting a ceiling of $395 billion, I believe we are encouraging a greater deficit. Reasonable people can disagree with this. But putting a ceiling on spending does not stop it if Congress continues to approve big spending programs and passes appropriation bills exceeding the ceiling. They will continue to be valid regardless of whether this amendment passes or does not pass.

Mr. DOLE. Will the Senator yield?

Mr. WILLIAM L. SCOTT. Yes; I am glad to yield. I only have 2 minutes.

Mr. DOLE. I have just been advised that, depending on economic growth, the revenues could be between $360 and $380 billion, which is even better than the Senator from Kansas said earlier.

Mr. WILLIAM L. SCOTT. I think we can learn the future by studying the past. If the Senator looks at this year's income and last year's income and the income before that, he will find the growth has been nothing like what the Senator from Kansas indicates it will be next year. The budget submitted by the President early this year indicates receipts of $264.9 billion in fiscal year 1974, $278.8 billion as an estimate for fiscal year 1975, and an estimate of $297.5 billion for the current fiscal year. I understand this last figure has now been revised to $300.8 billion, but Government revenue for the present fiscal year and prior years does not support a figure approaching $350 billion. Therefore, I cannot support a $395 billion ceiling.

Mr. DOLE. I am just quoting from OMB, which may not be precisely accurate.

Mr. CURTIS. Mr. President, how much time do I have?

The PRESIDING OFFICER. There are 5 minutes remaining.

Mr. CURTIS. I yield 2 minutes to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise in support of this amendment. I have been in the Senate for 21 years. The budget has been balanced only 4 years during those 21 years. I know of no man in my State and no corporation in my State that could stay in business if he did not operate his financial matters in a sounder way than that.

I think the time has come when we must retrench fiscally. I think the time has come when we must eliminate from our budget some nonessential, nondefense matters.

I am convinced we cannot keep on as we are going. I am convinced that we are headed in the same direction that New York City has already found itself in. I think it is urgent that we take action, and we ought to take it now. In fact, Mr. President, I think it is ridiculous to talk about reducing taxes when we are going in debt as much as we are now.

For the next year, I understand that the projected budget is $423 billion. This amendment would cut off of that $28 billion. This would bring it down to $395 billion. This makes sense to me. I think it makes sense to the American people. If we go back home and ask our people how they feel about this amendment, I believe we will agree that this amendment, sponsored by the distinguished Senator from Nebraska and others, is a

sound amendment and warrants the support of every member of the Senate.

Mr. CURTIS. I yield 2 minutes to the Senator from New York.

Mr. BUCKLEY. I thank the Senator from Nebraska.

Mr. President, we keep on talking about extending a tax cut. I wish to point out that all we are really doing is, in a very crude way, removing the automatic and surreptitious tax increases that results from the fact that inflation is lifting our entire working population into higher tax brackets.

I have had some rough calculations made, and I understand that what we are accomplishing would roughly equal the automatic results that would come about if we were to index our income tax. I hope my good friend from Louisiana will, sometime, allow hearings on some legislation that I have introduced to accomplish this.

I profoundly agree that we are already placing too high a burden of taxation on the American public. We have shifted too great a percentage of the total earning capacity of our society and our economy from private hands to public hands. Therefore, where we have to focus if we are to rationalize our fiscal policy and bring inflation to a halt is on cutbacks very strong cutbacks, in the spending by this Government.

I believe that what we are doing now, if the Curtis amendment is adopted, really is more symbolic than practical, in that I do not think it has the teeth, under our budget procedures that we have adopted. But I do not think it does violence to our budget procedures. For that reason, as a member of that committee, I shall be supporting this amendment.

Mr. CURTIS. Mr. President, I yield the distinguished Senator from Wyoming 10 minutes under the bill.

Mr. HANSEN. Mr. President, I thank my colleague from Nebraska.

Let me say the reason I am supporting this amendment is that spending in this country is out of control. We have lost control of it. Spending is too high. It is inflationary. Anyone who is trying to make ends meet these days—and that includes most Americans, most Americans who are on a salary and who are working for wages—knows it is getting tougher every day.

There is no doubt but what we can also learn, I think, another lesson from California. One of the speakers addressing the subject earlier, spoke about one of the cities in that State. I would refer you to what the Governor of California is doing. He is recognizing, as all of us should these days, that we cannot buy many of the things we hope to buy. We cannot solve every problem by spending money. He is saying realistically Government has overpromised. It has overpromised, and about all it can do is assure the people of the United States that the money will be spent.

Most of the objectives that so easily creep into a budget are never realized. We disappoint people because we tell them we are going to do certain things, that certain goals will be achieved, and we wind up falling flat on our faces.

The one thing we can do is recognize that governments cannot solve all of the problems of the people in the United States. They have to accept the responsibility for doing those things they should be able to do for themselves; and, second, we must be pretty careful about what we promise people and tell them we can do.

I read a short news story relating how a certain group is actually thinking about suing an official who failed to keep what they understood were clearly his campaign promises. If I recall correctly, the surprising thing to most of us is that anyone would have taken a politician seriously in the first place.

Another reason, that has been given as to why we should oppose this amendment is that it interferes with the Budget Act. That point technically is right.

The reason we are proposing the amendment now is the bill to extent certain tax cuts is before us now. We are talking about extending certain tax reductions that affect withholding taxes that will expire come December 31 at midnight of this year, extending them for another half year. It is suggested we should consider cuts later in the summer.

The trouble with that approach, Mr. President, is simply this, mark my words: 1976 is an election year. The Congress of the United States is not about to take up a tax measure after June 30, 1976 and either raise taxes or cut back on expenditures. So what it really amounts to is that the typical American is going to find he has been deluded another time. The increases, if he has gotten any, in wages or salary will be more than eaten up by the effects of inflation, and he will find, to his great delusion, if he were gullible enough to believe us, that the things we promised, the goals we held out for the new programs and the new spending authority that we authorize, fall short of achieving those goals.

I withhold the remainder of my time.

Mr. LONG. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. I believe I have made my position clear with regard to this matter already so I will be very brief.

The amendment seeks to control spending for the fiscal year 1977, starting in October of 1976. Neither Congress nor the President has distinguished itself or himself for being able to look into the future and tell what the situation will be a long time in advance. The President, in a much shorter period of time than we have involved here, changed from recommending a tax increase to recommending the largest tax cut in history.

Under our budget procedures, the President would submit his budget in January, the Budget Committees and the Appropriations Committees, the Finance Committee, and the Ways and Means Committee can study these recommendations, as well as all the other committees that have the responsibility, and they can arrive at a budget goal under the law. This is to be done by May 15 and, I submit, Mr. President, we will be a lot better able to estimate what the Nation's needs will be starting in October if we are looking at that in May than we would if we are looking at that same thing here in December.

No one knows what the future holds in that regard. This measure would ask those of us in Congress to fix a spending figure sight unseen, without having any breakdown, limited merely to a $395 billion overall figure.

That, Mr. President, is an irresponsible way to do business, particularly if, by waiting a few months, you can proceed in an orderly fashion, see what the President recommends, and then see what the figures should be. For all I know $395 billion might be too much. On the other hand, it might not be nearly enough, and who would know unless he would have a chance to analyze it and study it after he had seen it broken down by different functions.

My experience with most budgets has usually been I would think we ought to spend more in some respects and less in others, and I think that is how the majority of the people would look at it.

But to set this precedent, after having passed a law to provide an orderly budgetary proceeding, and to say now we are going to bypass all that, we are just going to get one figure and try to cut the costs to fit the figure, not knowing how adequately that provides for national needs is, in effect, to sidestep the budgetary proceeding that Congress so responsibly agreed to during this year.

I think, Mr. President, that would be a very bad mistake and, I believe, the Senator from Maine can explain that far more logically, precisely and eloquently than I because he is so much more familiar with it, and I ask the Senator from Maine how much time he would desire.

Mr. MUSKIE. Let me start with 10 minutes. I want to try to keep this debate to a minimum.

Mr. LONG. I yield 10 minutes to the Senator.

Mr. MUSKIE. First of all, I want to make it clear this $395 billion ceiling is not the President's proposal. The President proposed a $395 billion ceiling related to a $28 billion tax cut. The pending bill is not a $28 billion tax cut.

The President did suggest at the White House the other day that if the tax cut were less than his $28 billion that the spending ceiling might be adjusted by the difference in the tax cut. I do not know what this would produce in terms of a spending ceiling. It probably would be something more than $400 billion. But in any case what the distinguished Senator has introduced and which is pending before us is not the President's proposal.

I am not for the $395 billion, I would not be for the $400 billion plus, I would not be for the $423 billion; I would not be for any number at this point which would undertake to forecast the economic and budgetary conditions are going to be a year from now.

Let me remind Senators that a year ago this President promised us a balanced budget for the fiscal year in which we find ourselves, fiscal year 1976. He sent up his budget in January of 1975, 5 months later. Was it a balanced budg-

et? No. It showed a deficit of $52 billion. This was in February. A few months later, in the spring, we all remember the President on television drawing an imaginary line and saying, "$60 billion and no more." That was as high as the deficit was going to go.

Now, just within the last month, last few weeks, the President has given us his latest deficit for 1976, $72 billion plus.

Yet, the President wants us to look ahead a year from now and to nail down a specific dollar ceiling.

What we come up to, given variables of economic conditions, the problems with which the budget is forced to deal, such as unemployment compensation, social security, retirement pensions, and so on, given those we might conceivably come up with a lower number than 395, or a higher number, or 395.

But, Mr. President, I have been in the Senate for 17 years and I have seen Presidents suggest these magic spending ceilings. I have seen the Senate in panic endorse them, get to its collective feet with the most patriotic rhetoric endorsing fiscal responsibility. And those ceilings never worked, they never worked because they were not established on a solid basis of fact and they were not based upon an intelligent analysis of what the consequences were.

It was because of this history that the Congress finally established the budget process, and over the 17 years I have been here it is only since the Congress has undertaken to implement that budget process that there has been a sign of effective fiscal responsibility.

If I were a fiscal conservative—and I think I am, but may not be so regarded by others in the Chamber—I would embrace this new process as the first promise, the first meaningful promise of fiscal responsibility.

This proposal, if adopted, would completely torpedo the budget process—completely torpedo it.

I agreed to a unanimous-consent agreement which waives section 306 of the Budget Act with respect to this amendment, but I did so only because it seemed to me that maybe in this forum, in connection with this legislation and the President's proposal, this might be the time to discuss this budget process and what it means.

But in order to bring the budget under control, this is what the law says:

> SEC. 306. No bill or resolution, and no amendment to any bill or resolution, dealing with any matter which is within the jurisdiction of the Committee on the Budget of either House shall be considered in that House unless it is a bill or resolution which has been reported by the Committee on the Budget of that House (or from the consideration of which such committee has been discharged) or unless it is an amendment to such a bill or resolution.

What that says is that nobody else—no single Senator, no other committee—can initiate matters dealing with the budget, except the Budget Committee.

Why? Because the Congress wanted to vest 16 members of the Senate Committee on the Budget with unprecedented power? No. This provision was included because the Congress wanted to put control of the budget clearly in one place, the Committee on the Budget, and that is where it is.

Now we hear this proposal just a few days after Congress has done what? The Congress has adopted a budget resolution which establishes what? A revenue floor which is protected by the right of any Senator to raise a point of order against any legislation that would change it and a spending ceiling not of $395 billion, but of $375 billion for fiscal 1976, and both those numbers are protected by the right of a Senator to invoke a point of order against any spending legislation that would breach the spending ceiling and any revenue legislation that would cut revenues below the revenue floor.

That is a form of discipline, may I say to my colleagues, that the Senate and Congress as a whole have never previously been willing to accept. We heard something about that here this afternoon, and only a few days after we have taken that unprecedented step of adopting the second concurrent resolution.

I hear Senators rising on the floor and suggesting that all that be brushed aside. I have heard a Senator say, "No, we are not really doing violence."

Well, are we not? What does section 300 say? Section 300 says that the timetable with respect to the congressional budget process for any fiscal year is as follows:

> November 10, President submits current services budget.

He has done that.

> Fifteenth day after Congress meets, President submits his budget.

He has not yet done that and he refused the other night—refused—to give us information which he said he had in hand substantiating the $28 billion in cuts he proposed. So he refused up to this point to take that step.

> March 15, committees and joint committees submit reports to Budget Committees.
>
> April 1, Congressional Budget Office submits report to Budget Committees.
>
> April 15, Budget Committees report first concurrent resolution on the budget to their Houses.

That is the resolution which establishes recommended spending ceilings.

That is the timetable that this amendment would sweep aside.

Why have a first concurrent resolution on April 15 which is structured upon all the information that the act mandates. Why have it? Why not throw away the process and slip back to those golden days when Presidents recommended arbitrary spending ceilings, the Congress adopted them with tongue in cheek, knowing they would never be honored, never be honored and they never were.

So now when we get something that will work, we would throw it away.

In my State this year the people acted on a constitutional amendment to make sessions of the legislature annual, and why? Because ever since 1880 we have been trying to budget for 2 years at a time with biennial sessions of the legislature and it did not work.

The people of Maine had the commonsense to understand that and now we are going to deal with the budget on an annual basis in Maine because Maine people understand that is the way to control it.

What does the President want us to do? He wants us to budget on a biennial basis. He wants us to write the 1977 budget—for a year that does not begin until next October 1—today when he will not even give us a month's notice on what his proposed budget cuts will be in January of that same year.

Is that intelligent budgetmaking? Do my colleagues really believe that it is?

We have got something that is working. I could be just as exaggerated in my view of how it is working as some of the oratory I hear around here.

When we began in March, we took note of the President's budget. We looked at all the other legislation that was pending in committees that had substantial support, and we came up with a total of potential spending legislation that reached $410 billion.

That was the figure. I placed that speech in the RECORD on March 26, 1975.

The Budget Committee had to consider $410 billion in spending. What did we report to the Senate? A spending ceiling of $367 million. We could claim a saving of $43 billion. I am sure that we imposed restraint on a great deal of spending, but the exact amount would only be a guess. My honest guess is that we may have saved the taxpayers $10 billion to $15 billion this year because of the existence of the process, but that is only a guess.

I do know that at a time when the administration was expressing fears that the Congress would run up a deficit of $100 billion, I promised that that would not happen and it has not happened.

We have a deficit of $74 billion. That is a little less than $6 billion more than we projected in May. That difference is totally represented by reestimates of the entitlement programs which are governed by the effect of current law.

With respect to those things that the Congress can control through the appropriations process we have kept our commitment of last May.

So I say this process is working. I believe the country takes great assurance. It has not achieved what we would like ultimately to achieve, but with respect to that deficit let me make this point: Taking into account the President's proposals for this year as of their current status, including the tax cuts that he recommended, the congressional deficit at this point is $800 million under the President's deficit. I suggest that he does not have any better eye to the future than we have. Last March what I was shooting for was a deficit something like this as the maximum, and it came out pretty much on the button as of this moment.

So I say Senators can go back if they wish to an old-fashioned, outmoded, ineffective technique. It has been tried over and over again in the last 17 years. It has been proposed by Presidents of both parties; it has been proposed by Members of this body. It never worked. But I will say this: If we set this ceiling now, in effect, setting aside section 300 of the Budget Act and all that follows, including section 306, I can only comment as one Member of the Budget Committee. I am going to believe that the

punch has been taken out of the budget process.

Like it or not, and I have listened to the Senator from Nebraska, a Federal budget of $350 billion to $400 billion does have an impact on the economy.

One can argue it should not. How can it be avoided? We cannot neutralize the Federal budget's impact on the economy. We can misguide it, misdirect it, overstimulate it or overdepress it, but we cannot ignore it. There has to be some sense to what we do.

A little more than a year ago the President saw no recession coming. Two months later we had the biggest monthly drop in gross national product since the Great Depression—10 percent on an annual basis—and we were plunged into the recession. Two months later we had an unemployment rate climbing over 8 percent and approaching 9 percent, all unpredictable.

Will Senators predict with the kind of finality represented by this number what the economy is going to require next spring or next October? My hat is off to Senators if they can do it.

Do not think for a moment that that sense of fiscal responsibility is going to neutralize the effect of the budget in terms of its impact upon the economy. One could not find an economist to agree with them on any such proposition.

What I am urging is not to approve a ceiling of $395 billion or $375 billion, or $423 billion, or anything else. Under the scenario as it is now written, the tax cut in this bill runs only to the end of this fiscal year. So it is tied to the spending ceiling we have already written into the law. That is all nailed down for this fiscal year.

I promise, not on the Bible but on the record of this year, that before the end of this fiscal year we will put in place another spending ceiling and revenue floor that can be approved or disapproved. It can be looked at in the light of what the President is proposing and a Senator can say no to it or a Senator can say yes to it.

That will be in place so both decisions will be tied together.

This one is nailed down already; that one will be nailed down in the first and second concurrent resolutions for fiscal 1977.

I say on the question of fiscal responsibility and prudence that the record of Congress this year, looking at the deficit totals, matches that of the President of the United States.

Mr. ALLEN. Will the Senator yield?

Mr. MUSKIE. I yield.

Mr. ALLEN. I commend the Senator on his speech. I might say that few speeches on this Senate floor, according to my observation, have affected the outcome of votes taken in the Senate. I believe the excellent speech of the Senator from Maine, the chairman of the Budget Committee, had influenced the outcome of the vote on this amendment.

I would like to see spending for the next fiscal year limited to $395 billion, but I respect too much the fine work of the Budget Committee, which I believe is a fiscally conservative operation, to go against the recommendations of the distinguished chairman of the Budget Committee at this time.

I commend him on this fine speech he has made outlining the work and the thrust of the Budget Committee, and the dedication that the members of the committee have to their task of seeking to get the budget as near in line as possible. I commend the Senator for his speech and for the work of the Budget Committee.

Mr. MUSKIE. I am most grateful to the distinguished Senator from Alabama.

Mr. STENNIS. Will the Senator yield?

Mr. MUSKIE. I yield.

Mr. STENNIS. Mr. President, no one knows what course to follow in this problem which seems to have no full answer. But I do believe that, in spite of the large budget we have for 1976, the Senator from Maine, the Senator from Oklahoma, and their colleagues on this committee have made a contribution. I felt it myself is one reason I say that. The Senator will be more definite next year in his own guidelines, more certain and more positive, so that we can bring these things about. That will be more help. That would be more help. I shall expect more from the Senator next year than this year, because of his own experience, the fact that the Senate has had more experience, and we are all looking at this thing with more experience.

So I thank the Senator very much for the contribution he has made. I believe, everything considered, it is best to follow this route until we have given it another year's trial, anyway.

Mr. MUSKIE. I am very grateful to the Senator.

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

Mr. MUSKIE. I yield to the Senator from Kentucky.

Mr. HUDDLESTON. Mr. President, I, too, wish to commend the Senator from Maine, who has so clearly enunciated here before the Senate the one problem related to budget-making and expenditure limitations. The one problem before the Senate and before the House of Representatives in our budget-making machinery, as he said, will be to make sure that the Senate works, now, in accordance with that machinery, so that we can responsibly address the question of how much revenue we must have and how it shall be expended for the benefit of the people of this country.

I wish to say further that I think it is somewhat degrading to the Senate of the United States that we have presented such a political ploy, in trying to validate a position taken by the President of the United States, who some months ago determined that he was going to spend his time campaigning for reelection, rather than occupying himself with the problems that confront this country, and to try to set here some kind of a false and fallacious ceiling on expenditures for fiscal year 1977, without first knowing what his spending proposals are, without first knowing what kind of condition our country will be in at that time, where the priorities are going to be, and what the requests and the needs are to be. I think it would be foolhardy for this body to pervert its own machinery for responsible budget making by going off on this tangent in response to a purely and clearly political operation on the part of a candidate for President of the United States.

So I support the position taken by the distinguished chairman of the committee and by the distinguished Senator from Maine (Mr. MUSKIE). I believe the best interests of this country will be served if the Senate follows that course.

Mr. MUSKIE. I thank my good friend from Kentucky.

Mr. LONG. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Louisiana has 3 minutes remaining.

Mr. LONG. I yield my remaining time to the Senator from Oklahoma (Mr. BELLMON).

Mr. BELLMON. Mr. President, in the past I have favored spending ceilings. I remember working with the former Senator from Idaho (Mr. JORDAN) to help establish a ceiling some years back. But in every case I did that because at that time that was the best device we had available. In all candor, those budget ceilings never worked, for the reasons that have been ably explained here earlier by the distinguished chairman of the Budget Committee, the Senator from Maine (Mr. MUSKIE).

If you try to establish a budget ceiling when you do not know what is behind it, what its impact will be, it is ineffective and is quickly ignored. We have a new process now in the budget law, that does show promise of working, for the reason that we arrive at the ceilings in an intelligent and informed way. Every Member knows what is involved, and once we agree on a ceiling, we can make it stick. We can challenge bills that go beyond the ceilings we adopt, and in that way establish a process that will give us control of Federal spending.

I would like to support the amendment of the Senator from Nebraska, but in all candor I cannot, because while the approach he recommends is the best we had a year ago, it is not the best as things stand tonight. I believe we should not go ahead with the old system, but start moving ahead with the new one which Congress has already agreed to.

We pleaded with President Ford to accept the fact that we now have a better system than the arbitrary ceiling he has asked us to accept. I personally seriously doubt that President Ford understands the changes that have been made since he was a Member of Congress. I think he accepted some very bad advice from his staff when they got us into this business of an arbitrary ceiling before we know what is involved in the process.

I am of the opinion that had the President known what we are doing here, he never would have gotten himself in this business, but the fact is that here we are, and I believe it would be a serious mistake, now, to abrogate the benefits of the Budget Act when none of us quite know what we are doing. I believe for Congress to abandon the budget process that we knew to be working so well during the first year of its——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BELLMON. May I have an additional 2 minutes?

Mr. CURTIS. On the bill?

Mr. BELLMON. I ask for 2 minutes on the bill.

The PRESIDING OFFICER. The Senator is recognized for 2 minutes on the bill.

Mr. BELLMON. I believe it would be a mistake for us to abandon the budget process in the first year of its infancy, and agree upon an arbitrary spending limitation without prior judgment as to its effects and method of enforcement. I think that would be a serious error. Even President Ford, who has had months to consider the level of Federal spending, does not seem to know, or at least will not reveal, where these spending cuts can be made.

As a Republican, it is distasteful for me to go against my own President and the leaders of our party. However, I believe he reccived some bad advice, as I stated earlier, and his advisors did not fully understand the efforts Congress has been making toward achieving and maintaining a responsible fiscal policy, or for some other reason they have elected to go around that process and seek a confrontation with Congress for some political reason.

In either case, I think it would be a mistake to abandon what we have been trying to do here, and I intend to vote against the amendment.

Mr. CURTIS. Mr. President, I ask unanimous consent that the name of the distinguished Senator from Tennessee (Mr. BROCK) be added as a cosponsor of the amendment.

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

Mr. CURTIS. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DOMENICI. Mr. President, is there any time remaining?

The PRESIDING OFFICER. There is no further time remaining on the amendment.

Mr. DOMENCI. Do either of the Senators have any time remaining on the bill? Two minutes? Will the Senator from Nebraska yield me 2 minutes on the bill?

Mr. CURTIS. I yield the Senator 2 minutes.

Mr. DOMENICI. I thank the Senator.

Mr. President, I commend the distinguished ranking Republican member of the Budget Committee for his remarks, and state that for myself, I would like very much to support this proposal by the Senator from Nebraska, but my reasoning is this:

Had the Finance Committee extended this tax cut for the full year, I would have had difficulty supporting it; but what they have done is make it jibe specifically with the present Senate concurrent resolution of the Budget Committee. So what we are doing here today will have no impact on the budget before us, and we are properly considering the taxes that the Budget Committee in its resolution considered.

If we were not going to have an opportunity, come April and May, as a Budget Committee and as a body, to consider the proposal of the President, that is, if we were going to extend into 1977 additional tax cuts, without attempting reductions in expenditures, then I would probably support the proposal of the Senator from Nebraska.

But this body will have an opportunity, in April and May, and in the hearings preceding the first concurrent resolution, to specifically consider and testify, if Senators choose, before the Budget Committee that we ought to have a policy in our tax recommendations which will come to this body as a part of the tax ceilings in our first concurrent resolution, a proposal of the type which the President recommends, and which may be good for this country; that to reduce taxes further requires a reduction dollar for dollar in proposed expenditures of the Federal budget.

In summary, we have an opportunity to do what the President wants, and to do it in an orderly manner.

I think to support the amendment of the Senator from Nebraska, as much as I would like to, would pervert that process. If we would not have a further chance to do it, and he would not have a further chance at a proper time to propose it, then I would support his amendment. But since he will have another chance, I cannot support the amendment of the Senator from Nebraska.

Mr. CURTIS. Mr. President, I yield the Senator from Delaware 5 minutes on the bill.

Mr. ROTH. Mr. President, I had planned to offer a further amendment, if the one now before the Senate does not carry, but I have decided after reviewing the situation very carefully that I shall not do so.

The past week I have been actively participating in an effort to develop a constructive solution to the confrontation between the President and Congress over the tax and spending cuts.

In my opinion and in the opinion of many other distinguished colleagues involved in the debate, there are three crucial elements involved in a responsible solution to the problem.

We believe that there is a need to avoid a sudden tax increase, a need to control Federal spending, and also an obligation to continue the congressional budgetary process we ourselves have created.

I agree with those who feel that a tax cut should be continued in the months ahead. I think that our recovery is such that this would be helpful. But I equally believe that it is extremely important that we make it clear to the Nation that we do not intend to continue on our past spending policies, that we intend to bring the Federal budget under control.

I regret that our efforts to reach agreement on a firm moral commitment on spending have broken down between those who feel that what we are proposing was undermining the budgetary process, and the White House who did not think our language went far enough.

No one was more active than myself in creating the budgetary process, and I believe that in many ways it is doing a good job. But I see nothing wrong with the Congress instructing it to seek certain cuts in spending. After all it is a creature of Congress and should carry out our will.

But because these are particularly critical times, I think it perfectly proper for us to give it instructions. I think the public at home wants some evidence that this Government is seeking in good faith to hold down Federal spending.

Therefore, I have to respectfully disagree with the members of the Budget Committee who feel that a concurrent resolution today necessarily undermines what they will do in the months ahead. I see nothing wrong with this Congress, this Senate giving some indication to the Budget Committee that they want a spending ceiling at a certain amount. That does not prevent, in my judgment, the Budget Committee coming out with other recommendations.

But in any event, I regret to advise that my efforts, along with others, to reach some kind of language that would develop a firm moral commitment to holding down spending were not reached. I felt that the language acceptable to the Budget Committee was too weak, that it would be construed as merely a way out for the White House.

It is my belief that unless the Budget Committee was unwilling to accept a firm commitment, barring unforeseen circumstances, the language would accomplish little.

For that reason, I have decided it will not be desirable to offer my amendment upon the conclusion of the vote on the Curtis amendment. If the Dole-Curtis amendment does not carry, I shall vote against the tax cut and urge the President to resume the Congress the day after Christmas to consider further, a tax cut joined with action to hold down Federal spending.

Mr. MOSS. Mr. President, the President has said he would veto the tax cut proposed by Congress unless Congress agrees now to a deeper tax cut in fiscal 1976 and 1977 and a spending ceiling for 1977 which does not begin until next October and before we have seen the budget which is still under preparation in the White House. The President wants us to buy a "pig in a poke"—by insisting that Congress set a ceiling now on fiscal 1977 spending before we have seen his budget and long before anyone can predict with any certainty the economic situation the Nation is likely to experience nearly a year away. The President is also asking Congress to ignore the Budget Act and to abort the new budget process which is being implemented this year belatedly after a long, hard struggle.

Enacted in 1974, the Budget Act was implemented this year to bring the Federal budget process under control. It is the law of the land and applies to all Federal spending. An integral part of the law is the establishment of a spending

ceiling and a floor on revenues each year for the coming fiscal year. Congress has already set a spending ceiling of $374.9 billion for fiscal 1976. And will set a ceiling for fiscal 1977.

The law also spells out a list of requirements and a time schedule for handling the Federal budget. These include requirements for—First. The President to submit to Congress in November the Current Services Budget for the new fiscal year. This shows what the Federal budget would be for the coming fiscal year under current law; Second, submission of the President's proposed budget to the Congress in January; Third, the congressional authorizing committees to submit reports to the Budget Committee by March 15 indicating requirements for various types of spending; Fourth, a report by April 1 by the new Congressional Budget Office on the economic and program options regarding the Federal budget; and fifth, establishment of a target ceiling on spending and a floor on revenues by May 15 each year.

The law wisely prescribes that the Congress wait until these facts are known before setting the ceiling.

I strongly support actions to limit the growth of Federal spending in fiscal 1977. But this can only be accomplished effectively by identification of specific expenditure cuts which the President has not done. Spending ceilings were proposed and enacted by the Congress in 5 of the 6 years between 1967 and 1972. But because the spending ceilings were never combined with specific expenditure reductions they were ineffective in controlling spending. As a matter of fact, the last such failure of a spending ceiling in 1972, led directly to the new budget process Congress initiated this year.

Just what is a valid ceiling for fiscal 1977 remains an open question until a determination is made of the Nation's needs, the actual economic picture for a period which begins nearly a year from now, and until specific cuts can be identified.

We cannot ignore the administration's track record on economic predictions and budget estimates for a period that is a year ahead. After all, a year ago this same administration was recommending a tax increase in order to balance the budget for fiscal 1976. Some of us in Congress pointed up the glaring need to address the recession as well as inflation. Three to 4 months later, the administration did a turnaround; in February this year, the President submitted a budget to Congress which included a tax cut and called for a $52 billion deficit. Moreover, for the last 12 years the administration's budget submitted to the Congress in January has misestimated expenditures an average of 7 percent annually. Applying this figure to the $395 billion budget for 1977 which the President is talking about, would mean—perhaps coincidentally—about $28 billion.

The President has indicated that he is not proposing any budget cuts, but that he wants to restrain the growth in Federal expenditures. Let us look at the facts. The President's Current Services Budget for fiscal 1977 submitted to Congress last month amounts to $414.5 billion. By definition, the Current Services Budget does not enact any new programs, but merely continues existing programs. Thus, at least $20 billion must be cut from current services in order to reach the $395 billion ceiling.

I am confident that some economies are possible through program cuts and better management of existing programs. I support such an effort. But setting a ceiling should not be done in a way which would abort or destroy the new budget process—the very mechanism created to get the budget under control. And this cannot meaningfully be done before next year for the reasons already stated.

The new budget process is not an easy one, nor does it lend itself to shortcuts as we have found out this year. The question is not whether there should be a tax cut. The Congress agrees on that. The question is not really whether there should be a ceiling. The law requires a ceiling and Congress will set one for fiscal 1977 as it did this year. The question then is whether the ceiling should be set in accordance with the budget law that is—after Congress has received and considered the President's budget and the CBO report on the economic and program options—or whether we should act now in the dark and try to pick a figure that is meaningless. It boils down to whether we are going to be realistic and responsible or whether we are going to play politics with the Nation's economy.

Extension of the tax cut is necessary to offset the loss in consumer purchasing power, to stimulate business activity, reduce unemployment, and to continue economic recovery. It means about $156 a year less taxes for the average worker, and about $250 per year for a family of four with $15,000 annual income than if the tax cut expired. This money would be available to consumers to spend on items of their choosing. The result would be increased economic activity, a higher GNP, and a healthier economy.

Unfortunately, the President's proposal is long on rhetoric and short on facts, it is long on politics and short on economics. It may make news, but it does not make sense.

What appears to be a larger tax cut, although more attractive, would be a curse. The President's proposal involves boom-bust economics. A larger tax cut in January would stimulate the economy for the next 9 months, but the spending cuts starting in October—somewhat like a delayed time bomb—would force a more substantial drop—a real net loss—in the economy in the next year. Compared to the tax cut recommended by the Congress, CBO estimates indicate the President's proposal would:

Increase GNP $8 billion annually by the third quarter 1976 but then reduce GNP over four times that amount, $37 billion, annually beginning fourth quarter 1977. For the average family, this means an increase in disposable income—after taxes—at an annual rate of $82 next year, but then a reduction of 4½ times that amount—about $380 annually—beginning in the fourth quarter of 1977. What family wants to get so little in 1 year in order to give up so much each succeeding year?

Reduce unemployment by about 200,000 by the third quarter of 1976; but then add another 600,000 to the unemployment roles by the end of 1977.

Create an abrupt and significant swing in the economy in a very short period. Such harsh swings are responsible for a lot of the current inflation and unemployment, and I believe the American people want to see an end to such activity.

The question is not whether there should be a tax cut. The Congress agrees on that. The question is not whether there should be a ceiling. The law requires a ceiling and Congress will set one for fiscal 1977 as it did this year. The question then is whether the ceiling should be set in accordance with the budget law—after Congress has received and considered the President's budget and the CBO report on the economic and program options—or whether we should act without the necessary data and pick a figure out of the air that is meaningless. It boils down to whether we are going to be realistic and responsible or whether we are going to play politics with the Nation's economy.

Frankly, I am hopeful that the Congress and the administration can reach agreement on a compromise and that we will not have to replay the record of impasse and confrontation which has occurred between the Congress and the administration in the energy program.

SEVERAL SENATORS. Vote!

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Nebraska.

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 Indiana (Mr. BAYH), the Senator from Washington (Mr. JACKSON), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Arizonia (Mr. FANNIN), the Senator from Hawaii (Mr. FONG), and the Senator from Arizona (Mr. GOLDWATER) are necessarily absent.

I also announce that the Senator from Tennessee (Mr. BROCK) is absent on official business.

The result was announced—yeas 27, nays 66, as follows:

[Rollcall Vote No. 594 Leg.]

YEAS—27

Baker	Griffin	Roth
Bartlett	Hansen	Scott, Hugh
Beall	Hatfield	Stafford
Brooke	Helms	Stevens
Buckley	Hruska	Taft
Byrd, Harry F., Jr.	Laxalt	Thurmond
Curtis	McClure	Tower
Dole	Packwood	Young
Garn	Pearson	
	Proxmire	

NAYS—66

Abourezk	Bentsen	Burdick
Allen	Biden	Byrd, Robert C.
Bellmon	Bumpers	Cannon

Case	Humphrey	Nelson
Chiles	Inouye	Nunn
Church	Javits	Pastore
Clark	Johnston	Pell
Cranston	Kennedy	Percy
Culver	Leahy	Randolph
Domenici	Long	Ribicoff
Durkin	Magnuson	Schweiker
Eagleton	Mansfield	Scott,
Eastland	Mathias	William L.
Ford	McClellan	Stennis
Glenn	McGee	Stevenson
Gravel	McGovern	Stone
Hart, Gary	McIntyre	Symington
Hart, Philip A.	Metcalf	Talmadge
Hartke	Mondale	Tunney
Haskell	Montoya	Weicker
Hathaway	Morgan	Williams
Hollings	Moss	
Huddleston	Muskie	

NOT VOTING—7

Bayh	Fong	Sparkman
Brock	Goldwater	
Fannin	Jackson	

So Mr. CURTIS' amendment was rejected.

Mr. MUSKIE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MATHIAS. Mr. President, I have an amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 12, between lines 4 and 5, insert the following:

(3) CORRECTION OF OVERWITHHOLDING.—Notwithstanding the provisions of section 3402(a) of the Internal Revenue Code of 1954, the Secretary of the Treasury shall, by regulation, prescribe such adjustments to wage withholding under such Code as may be necessary to reduce excessive withholding where such excessive withholding is not desired by the taxpayer.

Mr. MATHIAS. Mr. President, this is an amendment similiar in some respects to an amendment that I have offered in the past. The principle embodied in this amendment is a very simple one. The Government withholds $1.20 from the paychecks of this country, from the workers of this country, for every dollar of taxes that is due. The 20 cents in overwithholding that is taken by the Government, which is ultimately repaid on applications for refund, at 20 cents, really becomes part of the money on which the Government does business without interest at the expense of the American taxpayer and wage earner. The amendment is just that simple.

Mr. President, this amendment empowers the Secretary of the Treasury or his delegate to amend the withholding tables in the Internal Revenue Code in order to reduce excess withholding.

The principle which I seek to support is that withholding should approximate the actual tax obligations of individual American citizens. The fact is that in recent years, withholding has exceeded taxes actually owed by over $20 billion per year. This means that approximately $1.20 was withheld from paychecks for every $1 actually owed by the Government.

This gross overwithholding results from several factors. In some cases, individuals prefer to have more withheld from their paychecks than they actually owe so that they receive a refund each April. In other cases, the withholding tables do not recognize the realities of the working lives of individuals. In still other cases, wage earners could reduce the amount which is withheld from their paychecks, but only by filing forms which are either unknown to them, or unavailable, or at least difficult to obtain or to understand. In any case, the result is massive overwithholding by the Federal Government of money which belongs not to the Government but to individual Americans.

There are several reasons why this excess withholding is undesirable. First, all withholding denies citizens the use of their money between the time at which it is earned and the time at which payment of a tax is due. The citizen does not receive interest from the Government on the amount withheld, nor can he invest it himself in a business venture or a savings account. He cannot pay a pressing bill early in the year, some 15 months before a tax is actually due. Indeed, money withheld is, for the wage earner, money the fruits of which are never attained nor attainable, until the refund check finally arrives.

Moreover, money withheld from the taxpayer is money that does not flow freely through our economy encouraging the very purchases of goods and services which the Congress is trying to encourage by enacting this tax reduction act. A reduction of excess withholding frees this money from the clasp of the Government for circulation through the private economy.

Indeed, a study undertaken at my request by the Library of Congress over a year ago showed that if we had cut withholding rates at that time by 8 percent, the economy would have been stimulated, over 200,000 new jobs created, inflation reduced, and the Government deficit actually slashed. If we had acted then, we would not be confronted today with the dire economic statistics which leap at us from the front pages of our daily newspapers, or appear in human form at the unemployment bureau, the closed factory gates, or the supermarket lines. The lives of millions of Americans would today be more prosperous and more rewarding. And the Federal deficit, instead of being monumentally increased by a tax cut bill of this proportion, would have been reduced by the taxes paid by people put to work and businesses with increased sales and production.

Mr. President, this amendment makes economic sense. It also makes our Tax Code more fair and equitable. I urge its adoption by the Senate.

I believe this amendment will be unique, first because it will not cost the Treasury a nickel, not even a penny and, second, because I think it can be presented in record time.

All it does, Mr. President, is it addresses the problem of overwithholding. The Treasury annually overwithholds $20 billion of taxpayers' money that they do not owe. For every dollar of tax owed, the Treasury takes $1.20 in withholding. Ultimately, that money comes back, but in this particular climate, in this particular time, every American family needs every penny to pay the grocery bill and the rent. I think it is very unfair for the Government to take $1.20 for a dollar that is owed. All we do by this amendment is empower the Secretary to adjust the withholding tables to recognize the overwithholding, to take from the taxpayer what is fairly due, and to leave to the taxpayer the money that he or she has earned to pay their family expenses. It does not mandate it; it does not direct it. It empowers the Secretary to do it.

I recognize the argument will be made that some people enjoy the refunds. They like to get a refund after they have filed their tax return. But I do not think it can be said that everybody who receives a refund deliberately arranged to have his taxes overwithheld.

Even those who may want to err on the side of safety, so that they do not have to make up the deficit when they file their return, did not contemplate that they would have a 20-percent overwithholding. They did not contemplate that $20 billion in taxes would be overwithheld that were not due from the taxpayer.

I think that at this particular moment in America's economic history, it is an unfair imposition on our taxpayers to make this kind of an overwithholding.

So, Mr. President, I urge the Senate to adopt this amendment.

The Senator from Louisiana opposed this amendment last March when I offered it to the Tax Reduction Act. Thirty-five Senators, however, voted in favor of it.

The Senator's principal argument against the amendment was, "a lot of taxpayers like to claim fewer exemptions than they are entitled to claim so that at the end of the year they will have money coming back to them." I have sought to accommodate the Senator's concern in this amendment by providing that the Secretary's regulations will only apply in those instances where "excessive withholding is not desired by the taxpayer."

I have discussed the amendment with the distinguished Senator from Louisiana, the chairman of the Committee on Finance. He has presented certain ideas on the way in which this might be implemented. I shall be glad to yield to him at this point.

Mr. LONG. Mr. President, this amendment really ought to be studied in connection with the tax reform measure when we have some time to consider it. It could result in any one of a number of decisions, depending upon how the Secretary of the Treasury goes about handling the withholding operation.

For example, we are told that it could conceivably result in a decrease of $5 billion in receipt of revenues for fiscal year 1976 if the Secretary, in trying to avoid overwithholding, were to do every-

thing that one could anticipate he might be inclined to do. It is definitely the kind of suggestion that would have a great deal of appeal, because most people do not like to overwithhold, although some do. I hope that the Senator will submit this proposal in connection with the so-called Tax Reform Act that we will be working on next year, because, to implement this type of suggestion, which does have a lot of merit to recommend it, would require a very substantial amount of lead time.

As it stands now, if one were to have a different set of withholding tables, he would have to have either the tables for 1974 or those for 1975, because it would be impossible to get any other set of tables in the hands of taxpayers between now and January.

The Senator is moving in an area that certainly deserves study and in which, if we can perfect this suggestion, we might well recommend action by the Senate. I do think it ought to be on some measure that has enough leadtime so it can be given some study and see what the withholding tables would look like under the new proposal.

Mr. MATHIAS. I understand what the Senator is saying. Here we are on the evening of the 15th of December and we are talking about legislation which, if it is enacted, will go into effect on the 1st of January. I know that I can rely on the Senator's assurance that this will receive consideration in the tax reform bill. It is a matter of continuing interest to the American people that more money is being taken out of their paychecks than they owe. When every dollar counts for groceries, rent, interest, and all the other necessities of life, I think it is time to look at this problem. On that basis, Mr. President, I shall withdraw the amendment.

The amendment was withdrawn.

The PRESIDING OFFICER. (Mr. CHILES). If there be no further amendments, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the committee amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

Mr. MANSFIELD. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. LONG. Mr. President, I yield 1 minute to the Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, I should like to vote to reduce taxes.

Government is taking from the working people too high a percentage of their hard earned dollars.

But the amount of revenues needed to operate government is determined by the amount of spending.

What are the facts?

The facts are these: Congress has passed a concurrent resolution mandating expenditures of $375 billion and mandating a deficit of $75 billion.

Such huge expenditures and such a huge deficit are, in my judgment, unwise, unsound, unwarranted, and irresponsible.

For Congress to take the view that it can spend $75 billion more than it takes in and that no one need pay for it is, I feel, totally unjustified.

A true tax reduction can be accomplished only by getting spending under control; it is now totally out of control.

A $75 billion deficit is certain to stimulate inflation, which already has eaten so heavily into every wage earner's pay check and into every housewife's grocery dollar.

Inflation itself is a tax, a hidden tax and a cruel tax. It hits hardest those on fixed incomes, the elderly, and those in the lower and middle economic brackets.

I should like to see taxes reduced, interest rates reduced and excessive Government spending reduced.

But the first can be accomplished only in concert with the third.

The Government's financial house is in total disarray. This year's deficit, coupled with last year's deficit, is greater than was the total cost of Government 11 years ago.

Under the conditions existing today, I cannot vote to reduce the Government's revenues.

ADDITIONAL STATEMENTS SUBMITTED ON H.R. 5559

Mr. TUNNEY. Mr. President, the Senate is now considering a temporary extension of the recession-fighting tax reductions first enacted last spring. It is critically important that this legislation pass, and that the President not veto extension of the 1975 tax reductions—otherwise, American consumers will lose $14.2 billion of spending power when, on January 1, 1976, an increased Federal tax bite hits the paychecks of 85 million workers.

American workers will not be the only ones who will lose if the tax reduction bill does not become law. In California alone, more than 900,000 people are suffering through the greatest unemployment crisis since the Great Depression. One out of every ten members of the labor force is unable to find employment. In the Nation at large, more than 7½ million people, 8.3 percent of the entire working population, are without productive employment. If the 1975 tax cuts are not extended, we may as well give up any hope of restoring what should be a basic right for all Americans—the right to a decent job.

Last September the Congressional Budget Office issued a report entitled, "Recovery: How Fast and How Far?" The opening sentence of that report was:

The U.S. economy is beginning to recover from its longest and worst recession since the 1930s, but it is not at all clear that the recovery will be sustained enough to carry the economy up the long road to full employment.

Since that report was issued, the economy has continued to wallow in depressed production and employment. Little progress has been made toward reducing unemployment and inflation.

Under these circumstances, the President's opposition to continuation of the 1975 tax reduction is destructive and irresponsible.

President Ford has proposed that Congress combine extension of the tax cut with an additional tax cut and with a 1977 spending reduction equal to the sum of these two cuts—$28 billion. He has promised to veto any extension of the 1975 tax reduction which does not provide for a corresponding spending reduction. He has chosen to grandstand with superficially appealing rhetoric when he knows perfectly well that a nation cannot use a guillotine to cut a budget. Cuts must be made surgically and carefully after complete evaluation of the effect on defense, domestic, and foreign policies. It is almost a year before the new fiscal year, and I do not believe Congress should surrender to the demagoguery of wholesale cuts, but should scrutinize the budget item by item.

I am deeply disturbed by the President's budget as a guide to executive way on this critical question. Last year the Congress enacted the Congressional Budget Act of 1974 in order to create the means by which Federal spending can be brought under control. The procedures under this act have worked so well that leading Republicans in Congress have estimated that these procedures have already saved at least $10 billion in the current fiscal year. The Budget Act requires Congress to set a spending limitation this coming May. Under the President's proposal, that ceiling would have to be set within the remaining few days of this session of Congress, without the benefit of congressional hearings, expert witnesses, knowledge of future economic conditions and without even the President's budget as a guide to executive branch priorities. If the Congress were to accede to the President's demand, we would fatally undermine the Congressional Budget Act procedures. We would lose the progress made toward long-term fiscal responsibility. We would endanger the fragile economic recovery and we would be making a fundamental economic policy decision which, although based on solely arbitrary political considerations, will be the single most important factor in determining the prospects for long-term economic recovery.

We cannot afford to gamble the recovery for the sake of accommodating the political needs of the President. We should and will pass this legislation to extend the 1975 cuts for 6 months. Within this 6-month period, we will set a spending ceiling for 1977 which is consistent with sound fiscal policy. With

both economic recovery and the integrity of the congressional budgetary process at stake, we should and we will prevail in this most basic policy contest.

TAX CUT EXTENSION

Mr. MONDALE. Mr. President, I rise in support of H.R. 5559, which, as reported from the Committee on Finance, extends the calendar 1975 tax cuts into calendar 1976.

I wish to congratulate the distinguished chairman of the Finance Committee, the senior Senator from Louisiana (Mr. LONG) for his leadership in developing the pending legislation. And I wish to thank the Senator, along with the distinguished chairman of the Senate Budget Committee (Mr. MUSKIE) and the Senators from Oklahoma and Nebraska (Mr. BELLMON and Mr. CURTIS) for their efforts to seek common ground with an administration bent on veto.

The case for the measure before us is a simple one. If no action it taken, key provisions of the Tax Reduction Act of 1975 will expire on December 31. And that will mean, in effect, a $15 billion tax increase affecting every American, and striking hardest at moderate income families and small businesses.

Under my amendment, accepted in committee, the expiring provisions are extended, and an upward adjustment is made in personal tax relief—increasing the standard deduction and raising the per-person credit from $20 to $45—to keep withholding rates from rising. This was necessary because the expiring Tax Reduction Act affected withholding over only 8 months of 1975.

EXPLANATION OF AMENDMENT

The Tax Reduction Act contained three approaches to personal income tax relief: First, increases in the minimum, percentage and maximum standard deductions; second, creation of a new $30 per dependent tax credit; and third, the earned income credit—or "work bonus"—which provides low income working Americans modest additional relief to compensate for the burden of payroll taxes. All will expire December 31 under current law, along with corporate tax reductions targeted for small businesses.

Under the Tax Reduction Act enacted last March, $8 billion in personal tax relief was withheld, under the increased standard deduction and $30 credit, over an 8-month period. A simple extension of the Tax Reduction Act would cause withholding rates to increase, since the same amount of tax relief would be withheld over a 12-month period.

The committee amendment proposes a proportionate increase in the standard deductions and credit, to keep withholding as nearly constant as possible, and an extension of the remaining expiring provisions.

COMPARISON OF AMENDMENT WITH 1975 TAX REDUCTION ACT

1975 ACT	AMENDMENT
Increases minimum standard deduction from $1,300 to $1,600 for single people and $1,900 for couples.	Increases minimum standard deduction to $1,800 for single people and $2,200 for couples.
Increases percentage standards deduction from 15% to 16%.	No change.
Increases maximum standard deduction from $2,000 to $2,300 for single people and to $2,600 for couples.	Increases maximum standard deduction to $2,500 for single people and $2,900 for couples.
Establishes a $30 per dependent credit.	Increases credit to $45.
Changes rate of corporate taxation (20% on first $25,000 of income, 22% on next $25,000, and 48% above $50,000).	No change.

This approach will extend the policies of the Tax Reduction Act, and keep withholding as nearly constant as possible. In addition, the increased standard deduction will permit 3 million taxpayers to convert from itemized to standard deductions.

Revenue Impact of Amendment (Full-Year Basis)

	FY 76	Calendar 76
Increased standard deductions	$2.04	$4.7
$45 per dependent credit	3.5	8.1
Earned income credit	0.4	1.4
Corporate rate reduction	0.59	1.9
Total	6.13	16.1
Budget target for FY 76	6.4	

THE VETO THREAT

The President has apparently given the Congress the choice between a "go-stop" economic policy or a "just plain stop" policy. His dramatic proposal of a $28 billion tax cut now and a $28 billion expenditure reduction in fiscal year 1977 would have boosted the economy in 1976—and then slowed the rate of growth drastically in the final weeks of 1976 and in 1977.

The Congressional Budget Office has estimated the following "go-stop" effects of the President's initial plan, when compared to the fiscal policy embodied in the recent concurrent budget resolution.

Unlike the President's proposal, there is nothing dramatic about the legislation we are considering this morning. And that is one reason this Senator finds it so hard to understand the administration's threat to veto this bill.

ESTIMATED EFFECTS ON THE ECONOMY OF THE PRESIDENT'S TAX AND SPENDING PROPOSALS—COMPARED TO SECOND CONCURRENT BUDGET RESOLUTION

	1976 third quarter	1977 fourth quarter
Effect of proposals on:		
GNP (billions of current dollars)	+10.5	−36.9
Real GNP (billions of 1958 dollars)	+5.3	−18.0
General price level (percentage of GNP deflator, 1958=100)	0.0	0.0
Unemployment rate (percentage points)	−.2	+.6

The President says he wants a ceiling to reduce spending.

But the ceiling he proposes is not for this fiscal year. That may be because the Congress under the Budget Act has already adopted a firm and binding ceiling covering revenues, spending, and deficit for this year—fiscal year 1976. And, I might add, the pending measure is allowed under those ceilings.

Instead, the President is asking for a ceiling on a fiscal year beginning October 1, 1976. Yet the President should know very well that we cannot set a meaningful budget target today for a year that does not begin until October 1976. He should know because for weeks we have asked for his specific proposals, and he is still unable to provide them.

In addition, the President should know that the only way to achieve budget control is with thoughtful and well considered spending targets, because recent history shows that ad hoc ceilings of the kind the President recommends are bound to fail.

That is why the Congress enacted the Budget and Impoundment Control Act—to set up committees, and a detailed and binding procedure for controlling the budget.

The responsible thing is to follow those procedures. And they will lead us to a spending ceiling for the year beginning next October 1 no later than next May 15. These ceilings will be based on a thorough review of the budget which the President has not yet put together. They will be passed on recommendations of each of the committees of Congress. They will be adopted after a full and informed debate. And they will effectively control the budget.

In enacting the pending legislation, the Senate is bending over backward to accommodate the administration's efforts to match 1976 tax cuts with 1977 spending ceilings. If the pending bill is to be effective for all of 1976, it will require extension on or before June 30 of next year. By that time, Congress will have completed its first concurrent res-

olution on the budget for fiscal year 1977. The President and the Congress can then consider the further extension of the tax cut in view of the congressionally established budget.

I still hope that the President will accept this compromise offer. A veto would be an act of tragic irresponsibility. And should the President veto this measure, I am hopeful that the bipartisan support which has characterized the development of the budget process here in Congress will permit an override of the President's veto.

Mr. JAVITS. Mr. President, I wish to address myself to the question of the extension and enlargement of the Tax Reduction Act of 1975.

It is imperative that the 94th Congress not permit income tax withholding rates to increase on January 1, 1976. We are all concerned about the size of the Federal budget deficit. We are concerned also that the level of demand in the economy not be reflated to the point where it exceeds our Nation's ability to produce. I have examined carefully the relationship between present and projected productive capacity and can report confidently that this Nation is operating so far below its potential that the danger of renewed inflationary pressure from continuation of reduced withholding rates is minimal.

What is the condition of our economy?

Third quarter GNP growth was, it is true, enormous. But when the positive effects of the reduced levels of inventory disinvestment are removed, and focus is placed instead on the behavior of final demand—the more relevant figure for the long-run supply-demand relationship—an entirely different picture of the economy is obtained. Third quarter growth in final demand was only 4.4 percent on an annual basis, unchanged from the behavior of final sales in the second quarter of 1975. This means that in marked contrast to the boom in GNP, the most important indicator of final demand showed no improvement over its second quarter performance.

There is further evidence that the behavior of our economy is anything but robust.

The new composite index of leading business indicators—which has predicted accurately most of the postwar swings in the business cycle—fell in both September and October. This index was the only one to predict the 1973 turning point in business activity and to portend the 1974–75 recession. After rising steadily through 1975 it has now dropped unexpectedly, to the alarm of most economists. This unfortunate development makes it clear that the recovery is already losing steam and that an economic slowdown will occur in 1976. I am not saying that our Nation is about to enter another recession. Only that after just a few months of economic growth, with the unemployment rate still above 8 percent, a deceleration is about to take place in the strength of economic recovery.

Mr. President, the growth of demand and the recovery of our economy depend on the consumer. Business investment in 1976 is not expected to grow in real terms over the levels reached in 1975. According to the conference board, the 1,000 largest manufacturing firms appropriated $10.8 billion in the third quarter for capital investment, the fourth successive decline in this significant expenditure component. The conference board predicts a 1-percent decline in capital investment in 1976.

State and local government spending plans have been paralyzed by the New York City financial crisis. This sector of our economy has been a major contributor to spending growth in the past decade, growing by 6 percent per year and accounting for 15 percent of GNP.

State and local governments are raising their taxes and reducing their expenditures, thereby exerting tremendous negative impact on the growth of national demand. This sector has been a most important creator of jobs and spending power since the early 1960's. The slowing of spending growth on the part of State and local governments will have adverse effects on the national economy. A recent New York Times article by Soma Golden explains clearly that recovery is threatened by the slowdown in State and local spending.

Analogously, we cannot rely on export growth to fuel economic recovery. The worldwide economic recession still holds many nations in its grip, so their demand for our exports continues to be impaired.

When these complex factors are considered, we must conclude that private investment, State and local spending, and exports will provide only ancillary contribution to the pace of economic recovery.

This leaves only the consumer and the Federal Government to carry economic recovery and thus close the monumental $120 billion gap between actual and potential production that now exists. Regrettably, the consumer appears to be hesitating at this time, as he awaits more concrete evidence that his recent income gains are genuine and permanent.

Consumer demand, which accounts for two-thirds of total U.S. output, has behaved most erratically in recent months. Although real consumption spending rose briskly in the second quarter of 1975, it did not exceed this level of growth in the third quarter. Retail sales, which moved upward sharply in late spring, have stood still since July and have already begun to show signs of weakness. The growth of consumer credit in October was 30 percent below that of September.

The National Industrial Conference Board reported in November that consumer confidence sagged in October for the first time this year. And First National City Bank found the same pessimism in its survey of consumer sentiment.

Why is the consumer so reluctant to carry the economic recovery? The answer to this question is apparent to all who have examined our Nation's economy. It is because the real, after-tax personal incomes of consumers are declining. Disposable personal income in constant 1958 dollars fell from $620 billion in the second quarter of 1975 to $611 billion in the third quarter. Real, spendable average weekly earnings of production workers fell in October from $91.70 to $91.66.

After-tax earnings on an individual and aggregate basis are declining because under our progressive income tax rate system tax brackets reflect nominal income changes. Thus, even if the growth of pretax earnings match price increases—as has occurred recently—the progressivity of the personal income tax structure causes real, after tax earnings to fall.

When this complex phenomenon is combined with the eroding effects of inflation on purchasing power, we get a picture of serious consumer income weakness and a commensurate failure of consumer demand to support economic recovery.

Mr. President, this dangerous situation in the economy compels us to extend the income tax reductions through 1976. This is a minimal requirement for economic policy because even if withholding rates are prevented from increasing on January 1, the return to full employment will be painfully slow.

Dr. Paul McCracken, former Chairman of the Council of Economic Advisers and presently the distinguished professor of economics at the University of Michigan, pointed out in a recent Wall Street Journal article entitled, "The Targets for Economic Policy," that since the unemployment rate is now at least 3 percentage points above that considered to be the full employment level and since three points of real GNP growth are required to reduce the unemployment rate by 1 percent, we now require 9 percent more GNP growth to achieve full employment. This task is immensely compounded by the fact that the labor force grows by about 1.6 percent per year and productivity can be expected to grow by two percent per year. Thus, at least 3.6 percent of real GNP growth is required just to keep the unemployment rate from rising above its already intolerable level. Dr. McCracken concludes that over the next 3 years real GNP must grow by 20 percent, or by 6½ percent per year in order to regain full employment by 1978.

I might add to this that if productivity grows by 2½ percent instead of by only 2 percent, and if we strive to reach a 4½ percent unemployment rate from the current astronomical rate of 8.3 percent, real growth would have to be about 24 percent or 8 percent per year for the next 3 years.

Mr. President, we cannot afford to ignore the threat to our economic prosperity and the challenge to government economic policy implied in these statistics.

If tax rates increase because we have not passed a simple extension and slight enlargement of the Tax Reduction Act, $900 million could be removed from the economy in January alone. When this is combined with resumption of social security taxes for workers who earned more than $14,100 this year, we have an ominous threat to the disposable income

of American consumers. The result can only be reduced consumer demand and a slowdown or decline in national production.

In testimony before the Senate Finance Committee on December 9, Treasury Secretary Simon asserted that discipline was required to control the share of GNP channeled through Government. I disagree with the timing and relevance of that argument.

This is neither a time for being hardnosed nor a time for careless largesse. Two years of recession, double-digit inflation, and 8 percent-plus unemployment already has provided discipline for the American people.

I submit that this is a time for reasoned judgment and for thoughtful analysis. In the context of our present economy, reasonable Americans are led to conclude that maintenance of current tax rates is both a judicious and a prudent course for public policy to follow.

This is a prudent policy because it takes into account the condition of abnormally high unemployment that is expected to persist through 1980. I simply cannot share the improvidence and cynicism that seem to characterize our present leisurely approach to the restoration of full employment. I believe we must strive to get the unemployment rate down as quickly as possible to a normal level.

A policy of maintaining current tax rates through 1976 is a judicious one because such a policy would insure more rapid recovery during the period when the slack in the economy was greatest. With an 8.3-percent unemployment rate and an enormous gap between actual and potential gross national product, we are in the most strategic position for continuing mild fiscal stimulus without reflating the economy.

What concerns me most about the debate over the tax cut extension is the growing evidence that the Congress and the administration may be approaching this question from two different viewpoints and with two different motives.

My own analysis has been couched in the context of the present and projected state of the Nation's economy. From the perspective of the long-range needs of our economy, I have concluded that maintenance of current tax rates is a prudent and judicious course for fiscal policy.

I suspect that the administration, on the contrary, has proceeded to develop its analysis as an examination of the appropriate role of government in the American economy. According to that point of view, a combined spending reduction-tax cut program is recommended in order to halt the growth of the Government's contribution to the economy but I believe this aborts the whole Budget Committee process by which the spending ceiling to be agreed on is based on expertise and cuts we made wisely with a scalpel and not a cutlass—for the budget directly affects the lives and fortunes of 220 million Americans.

But I think that this is an inopportune time for such deliberation. I have thought a good deal over the past few years on such subjects as capital formation, profit sharing, antitrust, and the related questions of the status of the American private sector. Questions such as these require serious attention and they demand legislative consideration.

But the issue of the growing role of government in the economy cannot receive adequate analysis when it is treated as a part of economic recovery legislation. The goal of a larger share of the economic pie for the private sector can not be achieved unless the pie itself is growing. If it is shrinking—as it may very well be if higher tax rates drain over $10 billion in purchasing power from consumers in 1976—the share of both sectors will diminish.

It seems that the administration may be willing to jeopardize the health of our economy in order to foster the development of a particular political-economic philosophy. To sacrifice the recovery of this Nation on the altar of philosophical expediency is a dangerous game.

I ask unanimous consent that certain supporting press articles be included in the RECORD.

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

KEY BAROMETER OF ECONOMY FELL AGAIN IN OCTOBER

WASHINGTON.—A key government barometer of future economic activity flashed a further signal that the business recovery is slowing down from the sharp post-recession rebound.

The Commerce Department's index of leading economic indicators declined in October for the second month in a row, falling 0.5% to 102% of the 1967 average from an upward-revised 102.5% in September. It was the first time the index had posted back-to-back declines since the barometer began rising in March, just before the end of the worst recession since World War II. (See chart on page one).

The September index, however, was raised to within 0.1% of the August figure, compared with an initially reported drop of 0.9%. Thus, the preliminary October index, if it stands would mark the first sizable monthly decline since the economic recovery began. Economists generally believe the index doesn't signal a change in economic direction until a trend has established itself for three months.

Nevertheless, government economists hadn't expected the October index to drop. Ford administration officials hastened to emphasize that in recent months the preliminary economic statistics used to compile the index have fluctuated sharply from the final figures. But the officials concede that the economy, while still growing, probably will record slower activity in the months ahead than during last summer.

"The behavior of the index in September and October, together with other recent developments, suggests a moderation in the pace of the overall economic recovery following a strong and unsustainable initial upsurge," said James Pate, Assistant Commerce Secretary for economic affairs. He said the 12.1% rise in the index in the eight months from March through October was second only to the record eight-month rise of 14.4% in 1958.

"Although some slowing in the pace of overall activity is expected in the fourth quarter, continued strong growth throughout 1976 is anticipated," Mr. Pate added.

Four of the 11 available leading indicators for October declined from September, while five increased and two were unchanged. Most of the decline in the index stemmed from a negative change in the percentage of total liquid assets, such as cash and checking accounts, held by businesses. Also moving unfavorably were the nation's money supply, net business formation and building permits. The Commerce Department said that at least one component—the money supply—resumed growth in early November.

Stock prices had the greatest influence on the index among the five components that increased in October. Also moving favorably were the percentage of companies reporting slower deliveries, the change in sensitive materials prices, new orders for plant and equipment and new orders for consumer goods. The layoff rate and the average workweek were unchanged.

CITIES AND STATES SLOWING SPENDING

(By Soma Golden)

Spending by state and local governments has been a steady and powerful generator of jobs and incomes in the United States for most of the period since World War II.

But for a variety of political, financial and demographic reasons, this spending has begun to slow—with potentially adverse effects on the expected economic recovery. This slow-down, which experts say could last several years, has apparently been intensified by New York City's financial crisis.

With state and local spending accounting for 15 percent of gross national product, slower growth in this $230 billion sector could lead to slower growth in the economy as a whole. Instead of the 5 to 6 percent yearly increase in such spending, analysts expect real growth for 1976, and probably for the rest of the decade, to be closer to 2 or 3 percent a year.

"The state and local sector is just too big to ignore," said Otto Eckstein of Data Resources Inc., an economics research company. "Any major change in the expenditure trends of this enormous sector will have an economy-wide impact." He noted that, in contrast, Federal spending accounts for only 9 percent of G.N.P.

"The question now is whether the growth of the state and local sector will stop altogether under the impact of New York City's problems," he added.

FEW PROJECTS PLANNED

Indeed, a check of two dozen state and local governments around the country found virtually none contemplating a major initiative in budgetary outlays for the years immediately ahead. Instead, officials seem hard-pressed even to follow through on existing spending plans as the recession's aftermath continues to sap their revenues and inflation continues to raise their costs.

Although most local and state officials publicly deny that New York City's problems have changed their budgetary practices, various outside economists think otherwise. A key Administration economist points to what he calls "a consciousness-raising" effect from New York City's disastrous reliance on heavy deficit financing.

In Illinois, for example, Gov. Daniel Walker has slashed his record $10.8 billion state budget by 6 percent through vetoes. If he is overridden by his legislature, the Governor has promised to raise taxes—rather than borrow—to cover the deficit.

CITY'S PATH CITED

Borrowing, says Governor Walter, "is the road that New York City went, and I will not take Illinois down the New York City road."

New York City, of course, is also trying to reduce spending. Markets slammed shut to the city last spring and New York has gone through a series of desperate financial gymnastics to pay its bills and trim its sails.

Despite the Administration's decision last week to offer the city seasonal loans for the next three years, New York has cut $300 million from its budget this year, which puts the budget at about $12 billion. Some $200 million of cuts must still be found to meet stringencies imposed on Mayor Beame by the Emergency Financial Control Board.

Another $800 million of potential city spending has been eliminated by a drastic slash in the capital budget, used primarily to finance construction programs and financed by long-term borrowing.

The state Legislature, meanwhile, is locked in a partisan debate about how big the state's deficit is and what taxes are necessary to close the gap. A modest $70 million or so has been cut from the state budget this year. The deficit however, is probably in the vicinity of $700 million.

IMPACT IS UNCERTAIN

How state and local cutbacks will affect the national economy is something about which economists disagree.

Arthur M. Okun, a former Democratic chairman of the President's Council of Economic Advisers says the new restraint in lower-level governments "does not mark the difference between recovery and recession." But "it's a relatively negative factor in the outlook now compared with two months ago," he said.

Mr. Okun, who is now with the Brookings Institution, a nonprofit research center, has cut a half a percentage point off his earlier forecast of 6 to 7 percent real output growth for next year to compensate for the new fiscal scrutiny under way in state capitals and city halls.

But one top Administration analyst, Rudolph G. Penner, senior economist at the Office of Management and Budget, disagrees, calling the Okun estimate "an exaggeration." He concedes, however, that in the short run the new restraint by lower-level governments could moderate the recovery.

Payrolls at state capitals and city halls now account for about 14 percent of the nation's total employment. The sector's jobs have grown faster in recent years than total United States employment and five times faster than Federal employment.

But the experience of past years—with spending propelled by the growth of Federal grants programs, the rise in welfare rolls, the Federal highway program, the increase in salaries of public employees, Federal revenue sharing may not be repeated.

Changes are already under way. According to a recent survey of 48 states and 140 local governments by the Joint Economic Committee of Congress, at least $8 billion has been drained out of the sector's spending stream during 1975 by emergency budget actions at the state and local level.

One result of these moves, the study says, is the elimination of about 140,000 government jobs—the equivalent of a little over a tenth of a percentage point in the unemployment rate.

The $8 billion of changes turned up by the survey came in three forms of governmental action: $3.6 billion of tax increases, $3.3 billion of cuts in current outlays and $1 billion in postponed capital construction projects.

It is considered ironic by many observers that at a time when the Federal Government has cut taxes once and contemplates cutting them again to stimulate the economy, state and local governments are heading in the opposite direction, taking stimulus out of the system in an effort to achieve fiscal respectability.

STATUTES CURB DEFICITS

The reason, in part, is that states, cities and counties—unlike the Federal Government—are generally bound by statutes to run their affairs without running deficits. Borrowing money is allowed, but, in general, only to finance capital expenditures or to tide the government over a cash-flow problem until revenues from another source come in.

Although borrowing money is one way to bridge a budget gap, New York City's difficulties this year in repaying its creditors has soured the municipal market for many government borrowers. Although total borrowing this year is expected to be new record highs of $251 billion, raising interest rates have frightened voters into rejecting new bond issues for additional capital spending.

This has forced many governments to pursue the tough political course of raising taxes or cutting outlays to make ends meet.

As a result, states and localities are spending money at roughly a record-breaking $10 billion annual rate of deficit. Without the $3 billion of spending cuts and tax increases reported to the Joint Economic Committee, the deficit would amount to $18 billion.

This marks a dramatic turn-around from the $4 billion surpluses that the sector ran in the prerecession year of 1972. The result was an $8 billion deficit during 1974, a year of deep recession and rampant inflation.

These official deficit figures, from the Federal Government's National Income Accounts, omit an additional $24 billion of long-term debt issued this year, a near record amount.

STRINGENT BUDGET POLICIES

The states and cities reporting the most stringent budgetary actions are those with the weakest local economic conditions and the highest unemployment rates.

The Joint Committee found a "significant mismatch" between resources and needs when it analyzed the fiscal conditions of three groups of states—those that produce energy, the farm states, and those with high unemployment.

The 13 energy producers, according to the report, are in "a very strong financial position" on average. These are Alabama, Arkansas, Oklahoma, West Virginia, Ohio, Utah, Indiana, New Mexico, Montana, Wyoming, and Tennessee. Overall, these states pursued very moderate spending cuts or tax increases this year.

The 18 states with relatively high unemployment were Oregon, Washington, Delaware, Pennsylvania, Florida, Georgia, North and South Carolina, Connecticut, Maine, Massachusetts, Rhode Island, Vermont, New Jersey, New York, Michigan, California, and Nevada.

Another relatively prosperous group of states discovered by the Congressional study are eight heavily agricultural states, namely Iowa, Minnesota, North Dakota, South Dakota, Wisconsin, Kansas, Nebraska and Idaho. They also were able to avoid major moves toward budgetary restraint during 1975.

"In 1973 and 1974 we had a net transfer of wealth in the United States to the energy or farm producer-states," said Ralph Schlosstein, an economist with the Joint Economic Committee, who directed the group's study.

However, a recent drop in farm prices and farm income, Mr. Schlosstein said, could put the farm states into the same difficult predicament as the 18 states in the study with jobless rates at or above the national average.

As a group, these states have "severe financial problems." They have been hit by the recession on both sides of their budgets—expenditures up for unemployment compensation and welfare, while revenues have been reduced. And they have little surplus left to live off this year, the study said.

The result has been a necessity on the part of officials in these areas to cut spending or raise taxes of citizens who can ill afford it.

"Restraints are being put on hardest in just those regions and states with the worst economies," Mr. Schlosstein said.

Officials in these areas hardest hit by unemployment seem to agree. In Detroit and Newark, they endorsed the effort in Congress to adopt countercyclical revenue sharing on top of the existing non-cyclical program that pumps out about $6 billion a year for state and local governments.

Although the immediate economic strain in the United States has obviously taken its toll on state and local spending, analysts insist that more than the business cycle is at work to cut back growth of the sector.

A major dampening force, they say, began in the late 1960's when the nation's schoolage population dropped, lifting the pressure on lower-level governments to spend money on education outlays.

An even more powerful potential force in dampening the growth of state and local spending may be what a Congressional budget expert called "the fundamental fed-upness of this country with public spending." He, like many others, attributed popularity of Edmund G. Brown Jr., Governor of California, to this anti-government spirit.

Governor Brown is struggling now to hold California's spending increases to as most, the inflation rate by forcing what he calls "very tough choices" on the legislature choices between salary increases and education at outlays, between colleges and child care, between health and conservation.

TAX DEMAND SEEN

"I know there will be a strong demand for new beer and liquor taxes and an increase in the gasoline tax," Governor Brown says. "But I certainly will work to avoid them as I did in the last year. I have a rather jaundiced view of any new taxes."

A similar sentiment was expressed by the Governor of Texas, Dolph Briscoe. Though he is feeling little financial pressure these days because of his state's energy tax revenues, he is already worrying about balancing the budget in fiscal 1978—two years away. To avoid a tax increase then, he has pledged to trim the budget.

A similar attitude prevails in the state house in Massachusetts, where Gov. Michael S. Dukakis has just acceded reluctantly to a $364 million tax package to support his minimal budget of $3 billion.

FINANCE COMMITTEE ACTS ON TAX CUT EXTENSION, OTHER MATTERS

The Honorable Russell B. Long (D., La.), Chairman of the Committee on Finance, announced that the Committee today ordered favorably reported legislation affecting the expiring provisions of the Tax Reduction Act of 1975 to maintain present withholding levels for six months. The Committee also acted on various other measures, as described below.

TAX MEASURES

Extension of expiring tax reductions

Railroad Rolling Stock

The Committee ordered favorably reported H.R. 5559, a bill providing for reciprocal tax exemption for payments received by Canadian railroads for the temporary use of their rolling stock. The Committee agreed to amend the bill as described below in order to provide

for the continuation of present withholding rates until June 30, 1976.

Increase in Standard Deduction

The Committee amendment provides for a six-month increase in the minimum standard deduction, to $1800 for single persons and to $2200 in the case of joint returns. The percentage standard deduction, which was increased to 16% by the Tax Reduction Act of 1975, would be continued at 16% for an additional six months. The maximum standard deduction would be increased for six months to $2500 for single persons and $2900 in the case of joint returns.

$45 Tax Credit for Taxpayers and Dependents

The Committee amendment would provide for six months a $45 tax credit for each taxpayer and dependents for whom the taxpayer claimed personal exemptions; this compares with a $30 credit which was provided in the Tax Reduction Act of 1975. The credit could not exceed tax liability.

Earned Income Credit

The earned income credit provided for in the Tax Reduction Act of 1975 would be extended for six months under the Committee amendment. The earned income credit equals 10% of earned income up to a maximum of $4000 (a maximum credit of $400). The amount of earned income eligible for the credit, however, is reduced dollar-for-dollar as adjusted gross income rises above $4000 so that the credit is phased out entirely when adjusted gross income is greater than $8000. The earned income credit may exceed tax liability, in which case it is refunded to individuals. The credit is available only to families with dependent children.

Business Tax Cuts

The Committee also approved a 6-month extension of the provision of the Tax Reduction Act of 1975 which allowed tax cuts largely for small businesses. This provision imposes a tax rate on the first $25,000 of corporate income of 20 percent rather than 22 percent; the next $25,000 of taxable income is subject to a 22 percent rate instead of a 48 percent rate. Corporate income in excess of $50,000 continues to be subject to a 48 percent rate.

The fiscal year 1976 impact of the Committee amendment is shown in the table below:

Fiscal year 1976 impact of Finance Committee amendment to H.R. 5559

[Dollars in billions]

Increase the standard deduction changes in the 1975 Tax Reduction Act (minimum increased to $1,800 for single persons and to $2,200 for joint returns; percentage standard increased to 16 percent; and maximum standard increase to $2,500 for single persons and $2,900 for joint returns)	$2.06
Increase the $30 tax credit for each individual taxpayer and each dependent under the 1975 Tax Reduction Act to $45	3.55
Extend the earned income credit (10 percent on the first $4,000, phased out at $8,000)	.04
Extend the 1975 Act to corporate rate changes (20 percent rate on the first $25,000 of income, 22 percent on the next $25,000, and 48 percent above that level)	.59
Total	6.24

Mr. BELLMON. Mr. President, as a long time loyal Republican and as one who has generally supported both President Nixon and President Ford, I do not look forward with any enthusiasm toward a confrontation on the tax reduction bill between the Congress and President. Also as a Member who has not supported past reduction in revenues at times when the Federal Government has been adding billions to the national debt, I shall find it difficult to vote to override the President's veto in the event he turns down the tax bill.

The record will show that I voted against the tax reduction which was before Congress a year ago. I took this action for the reason above. I doubt seriously the wisdom of reducing taxes and requiring the Government to borrow large sums of money to pay its bills. I find it highly distasteful to burden future Americans with paying the costs of current Government programs.

For the past 12 months, I have worked diligently with others who have attempted, with some success to bring an end to the constantly escalating growth in the cost of Government. This has been done through the budget process. This new process is in place and while it is still in its infancy, I am persuaded that given continued support it will prove to be a cure to the Governments economic malaise.

Mr. President, the results of the process are important but even more important in my mind is the credibility of the new procedures and the preservation and strengthening of the process. This Government must have an effective budget control method. While it has far to go, the new system is far superior to procedures of the past.

The budget process provides for in-depth consideration of every facet of Government service, thorough examination of the state of the Nation's economic condition and a thoughtful informed conclusion as to the proper levels of spending, the proper levels of taxation and the resulting levels of debt and deficit or surplus.

Also, Mr. President, even though I did not vote for the tax reduction when it was passed by the Congress, I am deeply concerned about the impact of a $17 billion tax increase in the period when unemployment is above the 8 percent level and when the economy recovery is still shaky. The jolt to the Nation's economy which would result from the sudden increase in taxes might turn the current recovery around and deepen the recession to the point that even greater deficits would be generated in future years. The present trend toward recovery is heartening and healthy. The recovery rate is even more rapid than expected. If it continues the prospects for reducing deficits and a balanced budget at an early date are bright, I am convinced that Congress should continue on the course which has been set until the objective of reasonably full employment is reached and a balance between Government's cost and its income has been struck.

Therefore, I will vote to continue the current level of taxation as proposed by H.R. 5559. Further, should President Ford veto the bill, I shall cast my vote to override.

TAX CUT EXTENSION IS VITAL

Mr. HUMPHREY. Mr. President, by acting today to provide for the extension of the 1975 tax cuts, we are achieving two vital purposes. First, we are preserving a budgetary and focal policy which will support continued economic recovery. Second, we are upholding our commitment to rational and systematic procedures for setting budget policy in the 1977 budget year and beyond.

Let us look first at the impact of extending the tax cut on the prospects for economic recovery during 1976. Every forecast of economic conditions in 1976 assumes extension of the tax cut. The second concurrent resolution on the budget assumes it. Even with this assumption that the tax cut is extended, the prospects are for, at best, a moderate recovery in 1976, with the unemployment rate declining slowly. Typical forecasts now show an average unemployment rate in 1976 of 7.8 or 7.9 percent. This is, of course, an improvement from the present 8.3 percent rate. Most of this improvement is expected to occur in the next few months. However, once the inventory swing is completed and the impact of last spring's tax rebates has been dissipated, the economic growth rate could slow down, meaning that further reductions in unemployment in late 1976 and in 1977 will be difficult to achieve.

I repeat, even that rather gloomy forecast assumes these tax cuts are extended. Suppose they were not extended? Suppose this tax cut bill is vetoed and the veto sustained? The President's advisers have allegedly told him it would not make much difference for the economy.

I beg to differ. It would make a great difference. Several studies of that difference are available—one by the Congressional Budget Office, one by Wharton Econometrics, and one by the staff of the Joint Economic Committee. These studies differ somewhat in their details, but the general conclusion is the same. Failure to extend the tax cuts means less economic growth and more unemployment. The JEC staff estimates that an additional 300,000 people will be unemployed if the tax cut is not extended. May I say I think that estimate is conservative. The mathematical techniques which economists must use to make these estimates have no way of taking into account the confidence factor.

Consumers are not in a confident mood. Every survey shows this to be true. The University of Michigan has just released a new consumer survey which reinforces this conclusion. Failure to extend these tax cuts might be the last straw for consumers—the stroke which completely destroys what little confidence they have left in the ability of Government to deal with economic problems. We cannot take the risk. I call on the President to sign this bill—to give the consumer a chance to regain confidence in the economy and confidence in Government. We will not have a recovery unless we have some revival of consumer confidence.

This is easier to understand if we look at the impact of the tax cut on specific

individuals and families. A family of four with an income of $5,000 will experience a tax increase of $300 if the 1975 tax cuts are not extended. The same size family with an income of $10,000 would experience a $144 tax increase. Those are big tax increases for people with modest incomes. It is absurd to say such tax changes would have no impact on the economy. They would have a big impact on the buying plans of these families. This impact would be felt throughout the economy. It is not an impact we can tolerate.

Let me turn now to the second aspect of this bill we are considering today. By passing the tax cut now and doing so for six months only, we preserve freedom of action on the fiscal year 1977 budget. Perhaps the economy will be stronger than we expect six months from now. perhaps further extension of the tax cut will not be needed. I myself think it is highly unlikely that the economy will develop such surprising strength, but we have learned in the last 2 years that the economic situation is capable of sudden and unexpected change. It could happen again.

For this reason it is entirely proper that flexibility be preserved with respect to the 1977 budget. Flexibility on both the tax and the spending side. The new budget procedures are well designed to provide for budget decisions at the appropriate time. Those decisions should be taken in light of economic conditions and expectations prevailing at that time. To take decisions today which bind us for the 1977 year on either the tax or spending side would be both unnecessary and unwise. I am pleased that the Congress has spoken with great unanimity on this issue. The new congressional budget process has been working well, and it must be given a chance to continue to do so.

I would urge the President of the United States to reflect on this point. After reflection, I hope he will see fit to sign the bill which we are passing today.

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

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

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Washington (Mr. JACKSON), the Senator from Alabama (Mr. SPARKMAN), and the Senator from South Dakota (Mr. MCGOVERN) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. FANNIN), the Senator from Hawaii (Mr. FONG), and the Senator from Arizona (Mr. GOLDWATER) are necessarily absent.

I also announce that the Senator from Tennessee (Mr. BROCK) is absent on official business.

The result was announced—yeas 73, nays 19, as follows:

[Rollcall Vote No. 595 Leg.]

YEAS—73

Abourezk	Glenn	Moss
Allen	Gravel	Muskie
Baker	Hart, Gary	Nelson
Beall	Hart, Philip A.	Nunn
Bellmon	Hartke	Pastore
Bentsen	Haskell	Pearson
Biden	Hathaway	Pell
Brooke	Hollings	Percy
Buckley	Huddleston	Proxmire
Bumpers	Humphrey	Randolph
Burdick	Inouye	Ribicoff
Byrd, Robert C.	Javits	Schweiker
Cannon	Johnston	Scott, Hugh
Case	Kennedy	Stafford
Chiles	Leahy	Stennis
Church	Long	Stevenson
Clark	Magnuson	Stone
Cranston	Mansfield	Symington
Culver	Mathias	Taft
Dole	McClellan	Talmadge
Domenici	McGee	Tunney
Durkin	McIntyre	Weicker
Eagleton	Metcalf	Williams
Eastland	Mondale	
Ford	Montoya	

NAYS—19

Bartlett	Hatfield	Roth
Byrd, Harry F., Jr.	Helms	Scott, William L.
Curtis	Hruska	Stevens
Garn	Laxalt	Thurmond
Griffin	McClure	Tower
Hansen	Morgan	Young
	Packwood	

NOT VOTING—8

Bayh	Fong	McGovern
Brock	Goldwater	Sparkman
Fannin	Jackson	

So the bill (H.R. 5559), as amended, was passed.

Mr. LONG. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MANSFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LONG. Mr. President, I have a number of routine motions.

I move that the Senate insist on its amendments and request a conference with the House of Representatives thereon and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer (Mr. CHILES) appointed Mr. LONG, Mr. TALMADGE, Mr. HARTKE, Mr. NELSON, Mr. MONDALE, Mr. GRAVEL, Mr. CURTIS, Mr. FANNIN, Mr. HANSEN, and Mr. DOLE conferees on the part of the Senate.

Mr. LONG. 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 amendments to H.R. 5559.

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

VETERANS AND SURVIVORS PENSION REFORM ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 512.

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

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2635) to amend title 38, United States Code, to modify the pension program for veterans of the Mexican Border period, World War I, World War II, the Korean conflict, and the Vietnam era and their survivors, and for other purposes, reported with an amendment.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Veterans' Affairs, with an amendment to strike out all after the enacting clause and insert the following:

That this Act may be cited as the "Veterans and Survivors Pension Reform Act".

TITLE I—REFORM OF THE NON-SERVICE-CONNECTED PENSION PROGRAM FOR VETERANS AND THEIR SURVIVORS

SEC. 101. Section 503 of title 38, United States Code, is amended to read as follows:

"§ 503. Determinations with respect to annual income

"(a) In determining annual income under this chapter, all payments of any kind or from any source (including salary, retirement or annuity payments, or similar income, which has been waived, irrespective of whether the waiver was made pursuant to statute, contract, or otherwise) shall be included except—

"(1) payments under this chapter and chapters 11 and 13 (except section 412(a)) of this title;

"(2) donations from public or private relief or welfare organizations;

"(3) amounts equal to amounts paid by a spouse for the expenses of a veteran's last illness, and by a surviving spouse or child of a deceased veteran for—

"(A) the veteran's just debts,

"(B) the expenses of the veteran's last illness, and

"(C) the expenses of the veteran's burial to the extent that such expenses are not reimbursed under chapter 23 of this title;

"(4) amounts equal to amounts paid—

"(A) by a veteran for the last illness and burial of the veteran's deceased spouse or child, or

"(B) by a spouse of a living veteran or the surviving spouse of a deceased veteran for the last illness and burial of a child of such a veteran;

"(5) proceeds of fire insurance policies;

"(6) profit realized from the disposition of real or personal property other than in the course of a busness;

"(7) amounts in joint accounts in banks and similar institutions acquired by reason of death of the other joint owner;

"(8) $780 of any earned income not otherwise excluded by this section;

"(9) one-half of the earned income over $780 of a spouse of a veteran who is in need of aid and attendance or is permanently housebound; and

"(10) amounts equal to amounts paid by a veteran, spouse, or child for unreimbursed medical expenses which exceed 5 per centum of such person's income (determined without regard to exclusions provided by this subsection) received during the year.

"(b) Where a fraction of a dollar is involved, annual income shall be fixed at the next lower dollar.".

SEC. 102. Section 521 of title 38, United States Code, is amended—

(1) by amending subsections (b), (c), (d), and (e) to read as follows:

"(b) If the veteran is unmarried (or married but not living with or not reasonably contributing to the support of such veteran's spouse) and has no child to whose support the veteran is reasonably contributing, pen-

sion shall be paid monthly at the annual rate of $2,700, unless the veteran is entitled to pension at the rate provided by paragraph (1) of subsection (d) or by subsection (e) of this section, reduced by the amount of the veteran's annual income.

"(c) If the veteran is married and living with or reasonably contributing to the support of such veteran's spouse, or has a child to whose support the veteran is reasonbly contributing, pension shall be paid monthly at the anual rate of $3,900, unless the veteran is entitled to pension at the rate provided by paragraph (2) of subsection (d) or by subsection (e) of this section. If the veteran has two or more such dependents, the rate shall be increased by $360 for each such dependent in excess of one. The rate payable shall be reduced by the amount of the annual income of the veteran and, subject to clause (1) of subsection (f) of this section, the income of such dependent or dependents.

"(d) (1) If the veteran is in need of regular aid and attendance, the pension payable to the veteran under subsection (b) of this section shall be $4,296, reduced by the amount of the veteran's annual income.

"(2) If the veteran is in need of regular aid and attendance, the pension payable to the veteran under subsection (c) of this section shall be $5,496, plus allowances for additional dependents, reduced by the amount of the annual income of the veteran and, subject to clause (1) of subsection (f) of this section, the income of such dependent or dependents.

"(e) If the veteran has a disability rated as permanent and total, and (1) has additional disability or disabilities independently ratable at 60 per centum or more, or (2) by reason of a disability or disabilities, is permanently housebound but does not qualify for the aid and attendance rate under subsection (d) of this section, the pension payable to the veteran under subsection (b) of this section shall be $3,336, reduced by the veteran's annual income, and the pension payable to the veteran under subsection (c) of this section shall be $4,536, plus allowances for additional dependents, reduced by the amount of the annual income of the veteran and, subject to clause (1) of subsection (f) of this section, the income of such dependent or dependents.";

(2) by amending clause (1) of subsection (f) to read as follows:

"(1) in determining annual income, where a veteran is living with or reasonably contributing to such veterans' spouse or dependent, the income of the spouse and dependent which is reasonably available to or for the veteran shall be considered as the income of the veteran;"; and

(3) by adding at the end thereof the following new subsection:

"(h) Benefits under this section may be paid less frequently than monthly where the amount of the monthly benefit would be less than $10.".

SEC. 103. Section 522 of title 38, United States Code, is amended to read as follows:

"§ 522. Net worth limitation

"(a) The Administrator shall deny or discontinue payment of pension under subsection (b) of section 521 of this title when the corpus of the estate of the veteran is such that under all the circumstances, including the consideration of the veteran's income, it is reasonable that some part of the corpus be consumed for the veteran's maintenance.

"(b) The Administrator shall deny or discontinue payment of pension under subsection (c), (d), or (e) of section 521 of this title when the corpus of the estates of the veteran, spouse, and children is such that under all the circumstances, including the consideration of the veteran's, spouse's, and children's income, it is reasonable that some part of the corpus be consumed for the maintenance of the veteran and such dependents.".

SEC. 104. (a) Section 541 of title 38, United States Code, is amended by amending subsections (b), (c), and (d) to read as follows:

"(b) If there is no child, or if no child is in the custody of the surviving spouse, pension shall be paid monthly at the annual rate of $2,700, reduced by the amount of the surviving spouse's annual income.

"(c) If there is a surviving spouse and one child in such surviving spouse's custody, pension shall be paid monthly at the annual rate of $3,900. If the surviving spouse has two or more children in such surviving spouse's custody, the rate shall be increased by $360 for each child in excess of one. The rate payable shall be reduced by the amount of the annual income of the surviving spouse and, subject to subsection (e) of this section, the income of any child or children, in the surviving spouse's custody.

"(d) Benefits under this section may be paid less frequently than monthly where the amount of the monthly benefit would be less than $10.".

(b) Section 541 of such title is further amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and by adding after subsection (d) a new subsection (e) as follows:

"(e) In determining annual income, where a surviving spouse has custody of a child or children, the income of the child or children which is reasonably available to or for the spouse shall be considered as the income of the spouse.".

SEC. 105. Section 542 of title 38, United States Code, is amended—

(1) by amending subsection (a) to read as follows:

"(a) The Administrator shall pay to the child or children (not in the custody of a surviving spouse having basic eligibility for pension under section 541 of this title) of each veteran of the Mexican border period, World War I, World War II, the Korean conflict, or the Vietnam era, who met the service requirements of section 521 of this title, or who at the time of death was receiving (or entitled to receive) compensation or retirement pay for a service-connected disability, monthly pension at the annual rate of $1,200 for one child, plus $360 for each additional child, reduced by the amount of each child's annual income."; and

(2) by repealing subsection (c).

SEC. 106. Section 543 of title 38, United States Code, is amended to read as follows:

"§ 543. Net worth limitation

"(a) The Administrator shall deny or discontinue payment of pension under subsection (b) of section 541 of this title when the corpus of the estate of the surviving spouse is such that under all the circumstances, including consideration of the surviving spouse's income, it is reasonable that some part of the corpus be consumed for the surviving spouse's maintenance.

"(b) The Administrator shall deny or discontinue payment of pension under subsection (c) of section 541 of this title when the corpus of the estate of the surviving spouse and the estates of children in such surviving spouse's custody is such that under all the circumstances, including consideration of income of the surviving spouse and the income of children in such surviving spouse's custody, it is reasonable that some part of the corpus be consumed for the maintenance of the surviving spouse and children in such surviving spouse's custody.

"(c) The Administrator shall deny or discontinue payment of pension under section 542 of this title to any child when the corpus of the estate of the child is such that under all the circumstances, including consideration of income of that child, it is reasonable that some part of the corpus be consumed for the child's maintenance.".

SEC. 107. Section 544 of title 38, United States Code, is amended to read as follows:

"§ 544. Aid and attendance allowance

"(a) If the surviving spouse is in need of regular aid and attendance, the pension payable to the surviving spouse under the subsection (b) of section 541 shall be $4,296, reduced by the amount of the surviving spouse's annual income.

"(b) If the surviving spouse is in need of regular aid and attendance, the pension payable to the surviving spouse under subsection (c) of section 541 shall be $5,496, plus allowances for additional dependents, reduced by the amount of the annual income of the surviving spouse and child or children in such surviving spouse's custody.".

SEC. 108. (a) Chapter 53 of title 38, United States Code, is amended by adding at the end thereof the following new section:

"§ 3112. Annual adjustment of certain benefit rates

"Whenever benefit amounts payable under title II of the Social Security Act are increased effective with a month in any calendar year after 1975 as a result of a determination made under section 215(i) of such Act, the Administrator shall, effective January 1 of the following calendar year, increase the rates of pension payable under sections 521, 541, 542, and 544 of this title or pursuant to such sections as in effect on September 30, 1976, and rates of dependency and indemnity compensation for parents payable under section 415 of this title or pursuant to such sections as in effect on September 30, 1976, as such rates were in effect immediately prior to such January 1, by a percentage which is the same as the percentage by which such benefits payable under title II of the Social Security Act are increased (except that such rates, as so increased, may be rounded in such manner as the Administrator considers appropriate for ease of administration).".

(b) The table of sections at the beginning of such chapter 53 is amended by adding at the end thereof the following:

"3112. Annual adjustment of certain benefit rates.".

SEC. 109. (a) Any case in which—

(1) a claim for pension is pending in the Veterans' Administration on September 30, 1976,

(2) a claim for pension is filed by a veteran after September 30, 1976, and within one year after the date on which such veteran became totally and permanently disabled, if he became totally and permanently disabled prior to October 1, 1976, or

(3) a claim for death pension is filed after September 30, 1976, and within one year after the date of death of the veteran through whose relationship the claim is made, if the death of such veteran occurred prior to October 1, 1976,

shall be adjudicated under title 38, United States Code, as in effect on September 30, 1976, with respect to any period prior to October 1, 1976, and, except as provided in subsection (c), shall be adjudicated under such title as amended by title I of this Act for any period on or after October 1, 1976.

(b) Nothing in this Act shall affect the eligibility of any person receiving pension under chapter 15 of title 38, United States Code, or under section 9(b) of the Veterans' Pension Act of 1959, on September 30, 1976, for pension under all applicable provisions of that chapter or for pension under all provisions of law applicable to pension paid pursuant to such section 9(b), as the case

may be, in effect on that date for such period or periods after September 30, 1976, with respect to which such person can qualify under such provisions. This subsection shall not apply in any case for any period after pension is granted, pursuant to application under title 38, United States Code, as amended by this title

(c) Subsection (b) shall apply to those claims within the purview of subsection (a) in which it is determined that pension is payable for September 30, 1976.

SEC. 110. Any child eligible for pension under section 533, 535, or 537 of title 38, United States Code, may elect to be paid pension at the rates prescribed by section 542 of such title. The Administrator shall pay pension pursuant to such election at the rates prescribed by such section 542 and under the conditions (other than the service requirements) applicable to pensions paid under that section to children of veterans of World War I. If pension is paid pursuant to such an election, the election shall be irrevocable.

TITLE II—ADJUSTMENTS IN CURRENT STATUTORY PENSION PROVISIONS

SEC. 201. Effective January 1, 1976, title 38, United States Code, is amended as follows:

(1) chapter 1 of title 38, United States Code, is amended—

(A) by striking out in paragraph (3) of section 101 "widow", "woman", "wife", "his", "him", "man", and "herself" each time they appear and inserting in lieu thereof "surviving spouse", "person", "spouse", "the veteran's", "the veteran", "person", and "himself or herself", respectively;

(B) by striking out in the second sentence of paragraph (4) of section 101 "his support" and "his spouse" and inserting in lieu thereof "the person's support" and "the veteran's spouse", respectively;

(C) by striking out in paragraph (5) of section 101 "his" and inserting in lieu thereof "the veteran's";

(D) by striking out in paragraph (13) of section 101 "widow" and inserting in lieu thereof "surviving spouse";

(E) by striking out in paragraph (14) of section 101 "widow" each time it appears and inserting in lieu thereof "surviving spouse";

(F) by striking out in paragraph (15) of section 101 "widow" and inserting in lieu thereof "surviving spouse"; and

(G) by adding at the end of section 101 the following new paragraph:

"(31) The term 'spouse' means wife or husband and the term 'surviving spouse' means widow or widower."; and

(2) chapter 15 of title 38, United States Code, is amended—

(A) by inserting in subsection (a) of section 503 "and" after the semicolon at the end of clause (16) of such subsection;

(B) by striking out in subsection (a) of section 541 "widow" and inserting in lieu thereof "surviving spouse" and by striking out "his" preceding the word "death";

(C) by striking out in subsection (e) of section 541 the language preceding clause (1) of such subsection and inserting in lieu thereof "No pension shall be paid to a surviving spouse of a veteran under this section unless the spouse was married to the veteran—" and by amending subclause (D) of clause (1) of such subsection, to read as follows: "(D) May 8, 1985, in the case of a surviving spouse of a Vietnam era veteran; or";

(D) by striking out in section 542 "widow" and inserting in lieu thereof "surviving spouse" and by striking out "his" preceding the word "death";

(E) by striking out in section 543 "widow" and inserting in lieu thereof "surviving spouse";

(F) by repealing sections 510 and 531;

(G) by striking out in the heading of subchapter III "Widows" and inserting in lieu thereof "Surviving Spouses";

(H) by striking out in the catchline of section 541 "Widows" and inserting in lieu thereof "Surviving Spouses";

(I) by striking out in the subheading of subchapter III immediately following section 543 "WIDOWS" and inserting in lieu thereof "SURVIVING SPOUSES"; and

(J) by amending the table of sections at the beginning of such chapter 15—

(i) by striking out

"510. Confederate forces veterans.";

(ii) by striking out

"SUBCHAPTER III—PENSIONS TO WIDOWS AND CHILDREN"

and inserting in lieu thereof

"SUBCHAPTER III—PENSIONS TO SURVIVING SPOUSES AND CHILDREN"

(iii) by striking out

"531. Widows of Mexican War veterans.";

(iv) by striking out

"541. Widows of Mexican border period, World War I, World War II, Korean conflict, or Vietnam era veterans."

and inserting in lieu thereof

"541. Surviving spouses of Mexican border period, World War I, World War II, Korean conflict, or Vietnam era veterans."; and

(v) by striking out

"Widows of Veterans of All Periods of War"

and inserting in lieu thereof

"Surviving Spouses of Veterans of All Periods of War".

SEC. 202. Effective for the period beginning January 1, 1976, and ending September 30, 1976, section 521 of title 38, United States Code, is amended—

(1) by amending subsections (b) and (c) to read as follows:

"(b)(1) If the veteran is unmarried (or married but not living with and not reasonably contributing to the support of such veteran's spouse) and has no child, pension shall be paid to the veteran according to the following formula:

"The monthly rate of pension shall be $173 reduced by—	For each $1 of annual income	
	Which is more than—	But not more than
$0.00	0	$300
.03	$300	500
.04	500	700
.05	700	1,200
.06	1,200	1,700
.07	1,700	2,000
.08	2,000	3,300

"(2) In no case may the amount of pension payable to any veteran under this subsection be less than $5 monthly.

"(3) In no case may pension be paid under this subsection to any veteran if the annual income of such veteran exceeds $3,300.

"(c)(1) If the veteran is married and living with or reasonably contributing to the support of such veteran's spouse, or has a child or children, pension shall be paid to the veteran according to the following formula:

"The monthly rate of pension for a veteran shall be—$186 if such veteran has one such dependent; $191 if such veteran has two such dependents; and $196 if such veteran has three or more such dependents; reduced by—	For each $1 of annual income	
	Which is more than—	But not more than—
$0.00	0	$500
.02	$500	700
.03	700	1,300
.04	1,300	2,800
.05	2,800	3,200
.06	3,200	3,800
.08	3,800	4,500
.08	3,800	4,500

"(2) In no case may the amount of pension payable to any veteran under this subsection be less than $5 monthly.

"(3) In no case may pension be paid under this subsection to any veteran if the annual income of such veteran exceeds $4,500.";

(2) by striking out in subsection (d) "him" and "$123" and inserting in lieu thereof "such veteran" and "$133", respectively;

(3) by striking out in subsection (e) "his", "him", and "$49" and inserting in lieu thereof "such veteran's", "such veteran", and "$53", respectively; and

(4) by amending clause (1) of subsection (f) to read as follows:

"(1) in determining annual income, where a veteran is living with such veteran's spouse, all income of the spouse which is reasonably available to or for the veteran in excess of whichever is the greater, $1,200 or the earned annual income of the spouse or not more than $7,000, shall be considered as the income of the veteran, unless in the judgment of the Administrator to do so would work a hardship upon the veteran;"

SEC. 203. Effective for the period beginning January 1, 1976, and ending September 30, 1976, section 541 of title 38, United States Code, is amended—

(1) by amending subsections (b) and (c) to read as follows:

"(b)(1) If there is no child, pension shall be paid to the surviving spouse according to the following formula:

"The monthly rate of pension shall be $173 reduced by—	For each $1 of annual income	
	Which is more than—	But not more than
$0.00	0	$300
.01	$300	600
.03	600	900
.04	900	1,500
.05	1,500	2,700
.06	2,700	3,300

"(2) In no case may the amount of pension payable to any surviving spouse under this subsection be less than $5 monthly.

"(3) In no case may pension be paid under this subsection to any surviving spouse if the annual income of such surviving spouse exceeds $3,300.

"(c)(1) If there is a surviving spouse and one child, pension shall be paid to the surviving spouse according to the following formula:

"The monthly rate of pension shall be $173 reduced by—	For each $1 of annual income	
	Which is more than—	But not more than
$0.00	0	$700
.01	$700	1,100
.02	1,100	1,800
.03	1,800	2,700
.04	2,700	3,500
.05	3,500	4,500

"(2) In no case may pension be paid under this subsection to any surviving spouse if the annual income of such surviving spouse exceeds $4,500.

"(3) Whenever the monthly rate payable to any surviving spouse under paragraph (1) of this subsection is less than the amount which would be payable for one child under section 542 of this title if the surviving spouse were not entitled, the surviving spouse shall be paid at the child's rate."; and

(2) by striking out in subsection (d) "widow" and "$20" and inserting in lieu thereof "surviving spouse" and "$22", respectively.

SEC. 204. Effective for the period beginning January 1, 1976, and ending September 30, 1976, section 542 of title 38, United States Code, is amended—

(1) by striking out in subsection (a) "$49" and "$20" and inserting in lieu thereof "$53" and "$22", respectively; and

(2) by striking out in subsection (c) "$2,400" and inserting in lieu thereof "$2,700".

SEC. 205. Effective for the period beginning January 1, 1976, and ending September 30, 1976, section 544 of title 38, United States Code, is amended to read as follows:

"§ 544. Aid and attendance allowance

"If any surviving spouse is entitled to pension under this subchapter and is in need of regular aid and attendance, the monthly rate of pension payable to the surviving spouse shall be increased by $69.".

SEC. 206. Effective January 1, 1976, chapter 15 of title 38, United States Code, is amended—

(1) by striking out in section 501(2) "him" and inserting in lieu thereof "such veteran";

(2) by striking out in subsections (a), (b), and (c) of section 502 "he" and "his" each time they appear and inserting in lieu thereof "such person" and "such veteran's", respectively;

(3) by striking out in section 503(a)(7) "wife", "his", and "widow" and inserting in lieu thereof "spouse", "such veteran's", and "surviving spouse", respectively;

(4) by striking out in subclauses (A), (B), and (C) of section 503(a)(7) "his" each time it appears and inserting in lieu thereof "such veteran's";

(5) by striking out in subclauses (A) and (B) of section 503(a)(9) "his", "widow", and "wife" each time they appear and inserting in lieu thereof "such veteran's", "surviving spouse", and "spouse", respectively;

(6) by striking out in section 503(a)(14) "his widow" and inserting in lieu thereof "such veteran's surviving spouse";

(7) by striking out in section 503(a)(16) "his" and inserting in lieu thereof "such employee's";

(8) by striking out in section 503(c) "widow" and inserting in lieu thereof "surviving spouse";

(9) by striking out in section 505(a) "his" each time it appears and inserting in lieu thereof "such individual's";

(10) by striking out in section 505(b) "his wife" and inserting in lieu thereof "such veteran's spouse";

(11) by striking out in section 505(c), including clauses (1) and (2), "widow" each time it appears and inserting in lieu thereof "surviving spouse";

(12) by striking out in section 506(a)(1) "he" and inserting in lieu thereof "the Administrator";

(13) by striking out in section 506(a)(2) "him", "he", and "his" each time they appear and inserting in lieu thereof "the Administrator", "such person", and "such person's", respectively;

(14) by striking out in section 506(a)(3) "his" each time it appears and inserting in lieu thereof "such person's";

(15) by striking out in section 507 ", in his discretion,"; by striking out in such section "his wife" and inserting in lieu thereof "such veteran's spouse"; and by striking cut in such section "wife" the second time it appears and inserting in lieu thereof "spouse";

(16) by striking out in subsections (b) and (c) of section 511 "he" each time it appears and inserting in lieu thereof "such veteran";

(17) by striking out in subsections (a) and (b) of section 512 "he" each time it appears and inserting in lieu thereof "such veteran";

(18) by striking out in section 521(g) "he" and inserting in lieu thereof "such veteran";

(19) by striking out in section 523(b) "him" and inserting in lieu thereof "such veteran";

(20) by striking out in section 532(a) "widow", "she", "wife", and "his" each time they appear and inserting in lieu thereof "surviving spouse", "such surviving spouse", " spouse", and "such veteran's", respectively;

(21) by striking out in subsection (b) and (c) of section 532 "widow" and "he" each time they appear and inserting in lieu thereof "surviving spouse" and "such veteran", respectively;

(22) by striking out in section 532(d) "widow", "she", and "him" and inserting in lieu thereof "surviving spouse", "such surviving spouse", and "such veteran", respectively;

(23) by striking out in the catchline of section 532 "Widows" and inserting in lieu thereof "Surviving spouses";

(24) by striking out in the table of sections at beginning of such chapter 15

"532. Widows of Civil War veterans."

and inserting in lieu thereof

"532. Surviving spouses of Civil War veterans.";

(25) by striking out in section 533 "widow" and inserting in lieu thereof "surviving spouse";

(26) by striking out in section 534(a) "widow", "wife", and "his" each time they appear and inserting in lieu thereof "surviving spouse", "such surviving spouse", "spouse", and "such veteran's", respectively;

(27) by striking out in section 534(b) "widow" and inserting in lieu thereof "surviving spouse";

(28) by striking out in section 534(c) "widow", "she", and "him" and inserting in lieu thereof "surviving spouse", "such surviving spouse", and "such veteran", respectively;

(29) by striking out in the catchline of section 534 "Widows" and inserting in lieu thereof "Surviving spouses";

(30) by striking out in the table of sections at the beginning of such chapter 15

"534. Widows of Indian War veterans."

and inserting in lieu thereof

"534. Surviving spouses of Indian War veterans.";

(31) by striking out in section 535 "widow" and inserting in lieu thereof "surviving spouse";

(32) by striking out in section 536(a) "widow", "she", "wife", and "his" and inserting in lieu thereof "surviving spouse", "such surviving spouse", "spouse", and "such veteran's", respectively;

(33) by striking out in subsections (b) and (c) of section 536 "widow", "she", and "him" each time they appear and inserting in lieu thereof "surviving spouse", "such surviving spouse", and "such veteran", respectively;

(34) by striking out in section 536(d)(1) "widow", "she", and "widows" and inserting in lieu thereof "surviving spouse", "such surviving spouse", and "surviving spouses", respectively;

(35) by striking out in section 536(d)(2) "widow" and inserting in lieu thereof "surviving spouse";

(36) by striking out in clauses (A) and (B) of section 536(d)(2) "her" and "widow" each time they appear and inserting in lieu thereof "such surviving spouse" and "surviving spouse", respectively;

(37) by striking out in the catchline of section 536 "Widows" and inserting in lieu thereof "Surviving spouses";

(38) by striking out in the table of sections at the beginning of such chapter 15

"536. Widows of Spanish-American War veterans."

and inserting in lieu thereof

"536. Surviving spouses of Spanish-American War veterans.";

(39) by striking out in section 537 "widow" and inserting in lieu thereof "surviving spouse";

(40) by striking out in subclauses (A), (B), and (C) of section 541(e)(1) "widow" each time it appears and inserting in lieu thereof "surviving spouse";

(41) by striking out in section 560(b) "himself and "his" and inserting in lieu thereof "such person" and "such person's", respectively;

(42) by striking out in subsections (a) and (b) of section 561 "his", "him", and "he" each time they appear and insertnig in lieu thereof "such person's", "such person", and "such person", respectively;

(43) by striking out in section 561(c) "by him";

(44) by striking out in section 562(a) "him" and inserting in lieu thereof "the Administrator"; and

(45) by striking out in subsections (b) and (d) of section 562 "he" each time it appears and inserting in lieu thereof "such person".

TITLE III—REFORM OF DEPENDENCY AND INDEMNITY COMPENSATION FOR PARENTS

SEC. 301. Section 415 of title 38, United States Code, is amended—

(1) by amending paragraph (1) of subsection (b) to read as follows:

"(b)(1) Except as provided in paragraph (2) of this subsection, if there is only one parent, dependency and indemnity compensation shall be paid monthly at the annual rate of $2,700, reduced by the amount of the parent's annual income.";

(2) by amending paragraph (2) of subsection (b) by striking out "he", "him", and "his" each time they appear and inserting in lieu thereof "such parent", "such parent", and "such parent's", respectively;

(3) by amending subsections (c) and (d) to read as follows:

"(c) Except as provided in subsection (d) of this section, if there are two parents, but they are not living together, dependency and indemnity compensation shall be paid monthly to each such parent at the annual rate of $2,700, reduced in the case of each such parent by the amount of such parent's annual income.

"(d)(1) If there are two parents who are living together, dependency and indemnity compensation shall be paid monthly to such parents at the annual rate of $3,900, reduced by the amount of their annual income.

"(2) If there are two parents and both have remarried and are living with their respective spouses, dependency and indemnity compensation shall be paid monthly to each

such parent at the annual rate of $3,900, reduced by the amount of the annual income of each couple, respectively.

"(3) If there are two parents and one has remarried and is living with such parent's spouse and the other parent is not remarried, or, if remarried, is not living with such parent's spouse, dependency and indemnity compensation shall be paid monthly to the remarried parent who is living with such parent's spouse at an annual rate of $3,900, reduced by the amount of the annual income of such remarried parent and such parent's spouse, and dependency and indemnity compensation shall be paid monthly to the other parent at the annual rate of $2,700, reduced by the amount of the annual income of such other parent.";

(4) by amending paragraph (1) of subsection (g) to read as follows:

"(g)(1) In determining income under this section, all payments of any kind or from any source shall be included, except—

"(A) payments under this chapter (except subsection 412(a)) and chapters 11 and 15 of this title and the first sentence of section 9(b) of the Veterans' Pension Act of 1959;

"(B) donations from public or private relief or welfare organizations;

"(C) amounts equal to amounts paid by a parent of a deceased veteran for—

"(i) a deceased spouse's just debts,

"(ii) the expenses of the spouse's last illness to the extent that such expenses are not reimbursed under chapter 51 of this title, and

"(iii) the expenses of the spouse's burial to the extent that such expenses are not reimbursed under chapter 23 of this title;

"(D) amounts equal to amounts paid by a parent of a deceased veteran for—

"(i) the expenses of the veteran's last illness, and

"(ii) the expenses of the veteran's burial to the extent that such expenses are not reimbursed under chapter 23 of this title;

"(E) proceeds of fire insurance policies;

"(F) profit realized from the disposition of real or personal property other than in the course of a business;

"(G) amounts in joint accounts in banks and similar institutions acquired by reason of death of the other joint owner;

"(H) $780 of earned income; and

"(I) amounts equal to amounts paid by a parent for unreimbursed medical expenses which exceed 5 per centum of such parent's income (determined without regard to exclusions provided by this subsection) received during the year."; and

(5) by amending subsection (h) to read as follows:

"(h)(1) If the parent is in need of regular aid and attendance, the dependency and indemnity compensation payable under subsection (b) or (c) shall be $4,296, reduced by the amount of the parent's annual income.

"(2) If the parent is in need of regular aid and attendance, the dependency and indemnity compensation payable under subsection (d) shall be $5,496, reduced by the amount of the couple's annual income, except for a parent who is not remarried, or, if remarried, is not living with such parent's spouse, in which case the amount shall be $4,296, reduced by the amount of the parent's income.".

SEC. 302. (a) Any case in which—

(1) a claim for dependency and indemnity compensation for a parent is pending in the Veterans' Administration on September 30, 1976, or

(2) a claim for dependency and indemnity compensation is filed by a parent after September 30, 1976, and within one year after the date of death of the veteran through whose relationship the claim is made, if the death of such veteran occurred prior to October 1, 1976,

shall be adjudicated under title 38, United States Code, as in effect on September 30, 1976, with respect to any period prior to October 1, 1976, and, except as provided in subsection (c), shall be adjudicated under such title as amended by this title for any period on or after October 1, 1976.

(b) Nothing in this Act shall affect the eligibility of any person receiving dependency and indemnity compensation for parents under chapter 13 or death compensation under chapter 11 of title 38, United States Code, on September 30, 1976, for dependency and indemnity compensation for parents or death compensation under all applicable provisions of those chapters, in effect on that date for such period or periods after September 30, 1976, with respect to which the parent can qualify under such provisions. This subsection shall not apply in any case for any period after dependency and indemnity compensation for parents is granted, pursuant to application, under title 38, United States Code, as amended by this title.

(c) Subsection (b) shall apply to those claims within the purview of subsection (a) in which it is determined that dependency and indemnity compensation is payable for September 30, 1976.

TITLE IV—ADJUSTMENTS IN CURRENT STATUTORY PROVISIONS RELATING TO DEPENDENCY AND INDEMNITY COMPENSATION FOR PARENTS

SEC. 401. Effective for the period beginning January 1, 1976, and ending September 30, 1976, section 415 of title 38, United States Code, is amended—

(1) by redesignating paragraph (2) of subsection (b) as paragraph (4) of subsection (b) and by striking out in the redesignated paragraph (4) of subsection (b) "he", "him", and "his" each time they appear and inserting in lieu thereof "such parent", "such parent", and "such parents", respectively;

(2) by amending paragraph (1) of subsection (b) to read as follows:

"(b)(1) Except as provided in paragraph (4) of this subsection, if there is only one parent, dependency and indemnity compensation shall be paid to the parent according to the following formula:

"The monthly rate of dependency and indemnity compensation shall be $133 reduced by—	For each $1 of annual income	
	Which is more than—	But not more than—
$0.00	0	$800
.03	$800	1,000
.04	1,000	1,200
.05	1,200	1,500
.06	1,500	1,700
.08	1,700	3,300

"(2) In no case may the amount of dependency and indemnity compensation payable to any parent under this subsection be less than $5 monthly.

"(3) In no case may dependency and indemnity compensation be paid under paragraph (1) of this subsection to any parent if the annual income of such parent exceeds $3,300.";

(3) by amending subsections (c) and (d) to read as follows:

"(c)(1) Except as provided in subsection (d) of this section, if there are two parents, but they are not living together, dependency and indemnity compensation shall be paid to each parent according to the following formula:

"The monthly rate of dependency and indemnity compensation shall be $93 reduced by—	For each $1 of annual income of such parent	
	Which is more than—	But not more than—
$0.00	0	$800
.02	$800	1,100
.04	1,100	1,600
.05	1,600	2,400
.06	2,400	3,300

"(2) In no case may the amount of dependency and indemnity compensation payable to any parent under this subsection be less than $5 monthly.

"(3) In no case may dependency and indemnity compensation be paid under paragraph (1) of this subsection to any parent if the annual income of such parent exceeds $3,300.

"(d)(1) If there are two parents who are living together, or if a parent has remarried and is living with such parent's spouse, dependency and indemnity compensation shall be paid to each such parent according to the following formula:

"The monthly rate of dependency and indemnity compensation shall be $93 reduced by—	For each $1 of annual income	
	Which is more than—	But not more than—
$0.00	0	$1,000
.02	$1,000	2,300
.03	2,300	3,300
.04	3,300	4,500

"(2) In no case may the amount of dependency and indemnity compensation payable to any parent under this subsection be less than $5 monthly.

"(3) In no case may dependency and indemnity compensation be paid under this subsection to a parent if the total combined annual income of the parent and such parent's spouse exceeds $4,500.";

(4) by striking out in subsection (e) "him" each time it appears and inserting in lieu thereof "the Administrator";

(5) by striking out in subsection (f) "he" and inserting in lieu thereof "the Administrator";

(6) by striking out in subsection (g)(1)(J)(ii) "his" and inserting in lieu thereof "such veteran's"; and

(7) by striking out in subsection (h) "$64" and inserting in lieu thereof "$69".

TITLE V—MISCELLANEOUS AND EFFECTIVE DATE PROVISIONS

SEC. 501. Effective January 1, 1976, section 4 of Public Law 90-275 (82 Stat. 68) is amended to read as follows:

"SEC. 4. (a) The annual income limitations governing payment of pension under the first sentence of section 9(b) of the Veterans' Pension Act of 1959 hereafter shall be $2,900 and $4,200, instead of $2,600 and $3,900, respectively.

"(b) Whenever benefit amounts payable under title II of the Social Security Act are increased effective with a month in any calendar year after 1975 as a result of a determination made under section 215(i) of such Act, the Administrator shall, effective January 1 of the following calendar year, increase the income limitations applicable to persons receiving pensions under section 9(b) of the Veterans' Pension Act of 1959 as such income limitations were in effect immediately prior to such January 1, by a percentage which is the same as the percentage by which such benefits payable under title II of the Social Security Act are increased (except that such income limitations, as so

increased, may be rounded in such manner as the Administrator considers appropriate for ease of administration).".

SEC. 502. Whenever benefit amounts payable under title II of the Social Security Act are increased effective with a month in any calendar year after 1975 as a result of a determination made under section 215(i) of such Act, the Administrator shall, effective January 1 of the following calendar year, adjust components of the statutory formulas relating to determination of rates of—

(1) pension for a person receiving pension for a period after September 30, 1976, pursuant to provisions of chapter 15 of title 38, United States Code, in effect on September 30, 1976, and

(2) dependency and indemnity compensation to parents for a person receiving dependency and indemnity compensation for a period after September 30, 1976, pursuant to provisions of section 415 of title 38, United States Code, in effect on September 30, 1976, to provide increases in rates and income limitations as such rates and income limitations were in effect immediately prior to such January 1, by a percentage which is the same as the percentage by which such benefits payable under title II of the Social Security Act are increased (except that such rates and income limitations, as so increased, may be rounded in such manner as the Administrator considers appropriate for ease of administration).

SEC. 503. Except as provided in sections 201, 202, 203, 204, 205, 206, 401, and 501, this Act shall become effective on October 1, 1976.

Mr. HARTKE. Mr. President, I rise to urge the Senate to pass S. 2635, the "Veterans and Survivors Pension Reform Act", which was reported unanimously from the Committee on Veterans' Affairs, which I am privileged to chair. I am most pleased that the entire membership of the Committee on Veterans' Affairs are principal cosponsors, including the distinguished hardworking chairman of the Subcommittee on Compensation and Pensions, the senior Senator from Georgia (Mr. TALMADGE). Senator TALMADGE, as chairman of this important subcommittee, has been most persistent since assuming that position in requiring the Veterans' Administration to develop and communicate adequate information needed to develop a more sound and equitable pension program. Other valued committee Members cosponsoring this important measure are the senior Senator from West Virginia (Mr. RANDOLPH) the senior Senator from California (Mr. CRANSTON), the Senator from Florida (Mr. STONE), and the Senator from New Hampshire (Mr. DURKIN).

In continuing the strong tradition of a bipartisan committee united in the objectives of providing all necessary and appropriate assistance to our veterans, once again I am pleased that the entire minority membership of the committee has also cosponsored and is unanimous in their support of this measure, including the ranking minority member, the Senator from Wyoming (Mr. HANSEN), and the senior minority Senator from South Carolina (Mr. THURMOND), and the Senator from Vermont (Mr. STAFFORD). In sum, Mr. President, 35 Senators have joined in cosponsoring this measure, which is aimed at fundamentally restructuring our veterans pension program to meet the crisis it currently faces and to accomplish more fully our national objectives of an equitable, workable pension program.

Mr. President, that there is a crisis facing the veterans pension program, is well documented. First, on January 1, 1976, solely as a result of this year's social security increases, 1,327,136 veterans and survivors are scheduled to have their pensions reduced while another 41,840 will lose their eligibility for pensions altogether. More fundamentally, there are hundreds of thousands of veterans and widows who are living in poverty despite receipt of VA pension benefits. The poverty level for a single person is defined as income of less than $2,590 a year. The maximum pension payable to a veteran without dependents, however, is only $1,920 and even less for a widow—$1,296. The poverty level for a couple is presently established at $3,410 annually, yet the maximum pension payment for a veteran with a dependent is $2,064—and $1,536 for a widow with dependents. According to information supplied by the Veterans' Administration, 34.1 percent of all veterans without dependents receiving pensions this year have incomes lower than the poverty level. Almost 49 percent of all widows without dependents have incomes which place them below the poverty level. As to veterans with dependents, 24 percent of those have incomes below poverty level and nearly 56 percent of widows with dependents have incomes including their pensions which still leave them below minimal poverty level standards.

In sum, Mr. President, there are 668,023 veterans and survivors who remain below the poverty level even with receipt of their veterans pension income.

The consequences of such inadequate pensions were revealed starkly in a congressionally-mandated study submitted by the Veterans' Administration to the committee this past July. In a study of the needs of older veterans and widows, the Veterans' Administration found that fully 30 percent of the veterans and nearly 37 percent of the widows interviewed reported they could not afford all the food they need. Twenty-five percent of the veterans and nearly 21 percent of the widows could not afford to pay for all the medical attention they needed. Approximately 36 percent of those interviewed, reported problems concerning adequate housing. Mr. President, it is clear, as the Veterans' Administration itself has acknowledged, that the current pension program in their words, contains "inconsistencies, inequities, and anomalies, which cannot be corrected unless the entire framework of the program is restructed." The bill before you today, is intended to meet these problems head on by restructuring the entire pension system to insure that all veterans and survivors are assured a level of income which places them above the poverty level.

Mr. President, S. 2635, the "Veterans and Survivors Pension Reform Act" as reported, creates a new pension system applicable to all veterans, widows, or dependent parents who, subsequent to October 1, 1976, the effective date of the new program, are or become eligible for a VA non-service-connected pension. This new pension program attempts to restructure the need-based pension program to provide greater assistance to those in need and to remove a number of inconsistencies, anomalies, and problems which prevent the current program from operating in all cases in the equitable manner intended by Congress. It is intended that the new pension system as authorized by the reported bill should:

First, assure a level of income above the minimum subsistence level, allowing veterans and their survivors to live out their lives in dignity;

Second, prevent veterans and widows from having to turn to welfare assistance;

Third, treat similarly circumstanced pensioners equally;

Fourth, provide the greatest pension for those with the greatest needs; and

Fifth, guarantee regular increases in pension which fully account for increases in the cost of living.

Under current law a basic payment rate is set which is reduced by a formula system as outside income increases. Current maximum payments for a veteran without dependents and with no other income is $1,920 a year—$1,296 for a widow. A veteran with a dependent and with no other income is entitled to a maximum yearly payment of $2,064—$1,536 for a comparable widow with dependents.

Rather than the current "rate-decrement income-limitation" structure, the new program adopts a system of establishing a basic minimum level of income for all eligible veterans and dependents, which is $2,700 for all single pensioners and $3,900 for all pensioners with dependents. For pensioners with little or no other income the Veterans' Administration would pay the difference between that income reasonably available to them and the minimum income floor established by Congress.

The new system—unlike the present system—generally contains few income exclusions other than those which represent extraordinary expenses—for example, burial or unusual medical expenses—or which represent one-time payments which replace loss—for example, fire insurance. Generally, each dollar of income available to an individual or couple will be reduced from the congressionally established level of need with the VA paying the difference in monthly assistance checks. For those in need of an "aid and attendance" or "housebound" allowance, a higher level of need is established which reflects the additional support needed—an additional $1,596 a year for those in need of aid and attendance or an additional $636 for those pensioners who are housebound. Unlike current practice, loss of the aid and attendance allowance will thus be "dollared down" gradually rather than lost totally, which is the case today when maximum income limitations are reached by pensioners.

In deserving cases, a limited amount of earned income of the spouse of a vet-

eran in need of aid and attendance or who is permanently housebound is not counted.

Consistent with the objectives and principals of a true need-based pension program, the rates payable to widows are equalized with those for veterans. Currently, widows receive pension at a rate two-thirds of that paid to veterans.

The new pension program provides automatic annual cost-of-living adjustments to the minimum level of income support established by this act. For example, a 10-percent increase in the cost of living would automatically result in a similar increase in pension for single and married pensioners to $2,970 and $4,290, respectively. According to information supplied by the Veterans' Administration, under the new pension program, no veteran or widow receiving cost-of-living increases in social security payments would as a result suffer any reduction in VA pension payments.

Prior to implementation of the new program, all veterans and dependents currently eligible for pension will receive an 8 per centum increase in the rate and a $300 increase in the maximum annual income limitations effective January 1, 1976. After October 1, 1976, all new pensioners must qualify under the new program. Those pensioners on the rolls prior to October 1, 1976, will have the option of switching to the new program or continued coverage under existing pension programs. Those minority of veterans electing to remain under that program originally established by Public Law 86–211, would thereafter annually receive cost-of-living adjustments in their rates and maximum annual income limitations.

A new pension program based on identical principals is established for parents receiving dependent and indemnity compensation.

Current "old law" pensioners—that is, those receiving pension under those provisions in effect prior to enactment of Public Law 86–211—would receive automatic cost-of-living increases in the maximum annual income limitations which is consistent with past congressional practice.

Mr. President, I ask unanimous consent that appropriate excerpts from the committee's report to S. 2635, the "Veterans and Survivors Pension Reform Act" be inserted in the RECORD at this point.

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

BACKGROUND AND DISCUSSION

Historical development of veterans pension program

Throughout America's 220-year history wars have claimed the lives of many. Millions have rallied to the aid of their country during times of turmoil. Since the War for Independence, America has remembered these brave citizens who have risked their lives in defense of their country. Pensions to veterans, their wives, and dependents have been one expression of this Nation's gratitude and its sense of obligation.

Veterans whose bravery characterized the fight for independence were the objects of the Nation's first pension bill. In 1818, President Monroe, himself a veteran of the Revolutionary War, signed into law a measure providing benefits to needy veterans who had served 9 months or more during the Revolutionary War period.

The administrations of Presidents Jackson, and Van Buren witnessed extended efforts on behalf of the Revolutionary War patriots. Widow pensions were authorized.

The War of 1812 did not spark the nationalistic fervor produced by the Revolution. Mired in sectional conflict which inhibited the development of national pride, the Nation did not grant pensions to veterans of that conflict until the 1870's when, again, need plus wartime service determined entitlement.

The veterans of the Mexican War also waited for pensions. The sectional ills which plagued this country in the decades following the Mexican War prevented the passage of a comprehensive pension program. But upon a return to "normalcy" the Nation remembered; the 1870's evidenced a pension program instituted designed to help the destitute. And in 1890, Benjamin Harrison signed into law, a measure which extended pension benefits to the needy veterans of the Civil War.

Within 20 years following the Spanish-American War, veterans and surviving spouses were extended pension benefits. Though immersed in World War I, the Nation sought to express gratitude for the service to their country.

World War I resulted in pension measures within a decade. President Hoover recognized the Nation's obligation to the warriors of the trenches and signed into law a bill which provided pensions to veterans of the Great War. Again the determinative factor, after a showing of qualifying service, was need.

In the midst of the depression President Roosevelt requested and received measures which repealed pension legislation for Spanish-American and World War I veterans. To replace these programs, F.D.R. issued 41 Executive orders in the area of veterans' affairs. The New Deal established the mechanisms to relieve those needy veterans whose valiant services had protected this country in time of war.

World War II vets, their widows, and dependents were extended benefits as well. Later, Congress extended pension benefits to Korean war veterans and to needy nonservice-connected disabled veterans of the Vietnam era. Thus, after each war, the Nation has remembered its obligation to veterans and dependents in need who have faithfully served their country.

Modern development of non-service-connected pension program

Until 1959, the veterans' pension program consisted of all-or-nothing determination of eligibility. Needless to say, this particular feature of the system resulted in drastic consequences to those whose allowable income increased above the determined eligibility limits. In 1959, the Congress extensively researched the pension system. Their study revealed the continued need for a pension program. It was also apparent that the structure of that program had created inequities. As a result a revision was undertaken which produced the penson structure as we know it.

The Congress decided that the variations in the amounts of pensioner's income required graduation in amounts of pension entitlement. Believing that the pension program should be responsive to the needs of those served, the Congress sought to take steps to correct the inequitable deficiencies inherent in the all or nothing pension structure. For example, the old system failed to correlate the number of dependents for which a veteran was responsible with the amount of pension for which he was eligible.

To rectify the anomalies, Congress attempted to adjust the pension entitlement to correspond with the individual pension recipient's income. A three-tier structure replaced the one-level benefit. In this manner, it was hoped, cognizance could be given to the varying degrees of need characterizing individual recipients.

To protect those pensioners whose pension entitlement might be reduced by the new program, a grandfather clause permitted those on the rolls to continue their eligibility under old law subject, of course, to the requirements of that law.

Thus, enactment of Public Law 86-211 gave credence to the philosophy that a pension ought to be reflective of the needs of individual recipients. The graduated levels of pension eligibility gave expression of Congress' desire that need would be determinative of pension entitlement. As such, Public Law 86–211 was another step toward the creation of a benefit program based upon need.

In 1964, faced with a prospective increase in social security benefits. Congress amended the revised pension law by excluding 10 percent of all payments to an individual under public or private retirement, annuity, endowment, or similar plans or programs in determining the "annual income" of the veteran. Thus, in addition to a general rate increase, the 10-percent exclusion provided for in Public Law 88–664 generally assured that no individual pensioner would be adversely affected because of the contemplated social security increase. At the same time Congress also created another exclusion, and provided that a wife's earned income would not be counted for determining a veteran's outside income and that a wife's unearned income would only be counted in excess of $1,200.

In 1967, Congress provided an average overall cost-of-living pension increase of 5.4 percent in Public Law 90–77. The following year in 1968, in Public Law 90–275, Congress again increased pension rates and also provided for a $200 increase in the maximum annual income limitations to mitigate against prospective pension loss which would result because of the 13-percent increase in social security benefits that year. The same act also replaced the three-level system of pension rates with a multilevel increment spstem. Under the previous three-level system, a slight increase in outside income often could result in a disproportionate decrease in a veteran's pension. The enactment of a 20-plus increment system of $100 graduations was designed to permit a more orderly and gradual reduction in monthly benefits wherever there was an increase in the outside income.

In 1970, in enacting Public Law 91–588. Congress again agreed to reduce projected adverse effects on pensioners because of the 15-percent increase in social security benefits. It raised the current maximum annual income limitations $300 and increased most current law pensions through an increase in the rates payable.

Under earlier pension laws, despite increasing refinements, the structure of the pension system was such that small increases in outside annual income could result in a sharp drop in pension or being dropped from the pension rolls completely. The problem become particularly acute whenever there were increases in social security, other retirement benefits or other countable income under the current pension program. Veterans complained that whatever social security increase Congress gave with one hand it took back in reduced pension with the other. More important, the reduction in a veteran's pension was often greater than the increase in social security benefits producing a loss of aggregate income for the veteran or his survivor. As the foregoing indicates, congressional response to these problems over the years has generally been to adjust pensions and increase the maximum annual income

limitations which in effect accomplishes a "pass long" of social security increases or other increases of like amount.

In 1971, in response to social security increases that year, Congress enacted Public Law 92–198 which not only increased the pension rates and the maximum annual income limitations but also adopted a new formula approach to the payment of pensions. Intended to prevent the net loss of aggregate income for any pensioner who continued to qualify for a pension and who received an increase in outside income, the formula specified a maximum monthly rate for each group within designated income categories. Under the formula, each individual's monthly benefit is computed by reducing the maximum rate by a specified number of cents for each dollar by which the maximum income level for that group is exceeded.

Because of 1972 social security increases, approximately 20,000 pensioners consisting of 14,200 veterans and 5,800 survivors were scheduled to be dropped from the pension rolls on January 1, 1973, the effective date of annual revision of entitlement to pension income. Concerned about the effect of social security amendments on pensioners the Committee held hearings on September 12, 1972, to consider legislation which would ameliorate the adverse impact of social security increases on pensioners and to adjust for continuing inflation. Subsequently, the Committee unanimously ordered reported S. 4006 which would have increased maximum annual income limitations by $400—the approximate amount of the average social security increase—and would have increased the base pension rates by about 8 percent.

The measure unanimously passed the Senate in the closing days of the session on October 11, 1972, but the House was unable to consider pension legislation prior to sine die adjournment.

The Committee proceeded to investigate pension restructuring during the 93d Congress and thereafter (see DISCUSSION, *infra*.). Because it lacked sufficient information to proceed, however, interim measures were reported and enacted into law. In particular, S. 275, which was reported and ultimately enacted as Public Law 93–177, provided for a 10-percent increase in the rates effective January 1, 1974. Similarly, the following year Congress enacted S. 4040, the Veterans and Survivors Pension Adjustment Act of 1974 as Public Law 93–527. This provided effective January 1, 1975, an average 12-percent increase in the rates of pension and a $400 increase in the maximum annual income limitations.

The following tables illustrate the historical development of both current law pensions and protected or "old law" pensions for veterans:

TABLE 1.—HISTORICAL DEVELOPMENT OF PROTECTED LAW PENSION FOR VETERANS

Law and effective date	Income limits		Rates of pension					
	Single	With dependent	Single	1 dependent	2 dependents	3 dependents	Aid and attendance	House-bound
WW VA, July 1, 1933	$1,000	$2,500	$30	$30	$30	$30		
Public Law 77–601, June 10, 1942	1,000	2,500	$40	$40	$40	$40		
Public Law 78–313, May 27, 1944	1,000	2,500	$50, age 65 or after 10 yr $60.	$50, age 65 or after 10 yr $60.	$50, age 65 or after $10 yr 60.	$50, age 65 or after 10 yr $60.		
Public Law 79–662, Sept. 1, 1946	1,000	2,500	$60, age 65 or after 10 yr $72.	$60, age 65 or after 10 yr $72.	$60, age 65 or after 10 yr $72.	$60, age 65 or after 10 yr $72.		
Public Law 82–149, Nov. 1, 1951	1,000	2,500	$60, age 65 or after 10 yr $72.	$60, age 65 or after 10 yr $72.	$60, age 65 or after 10 yr $72.	$60, age 65 or after 10 yr $72.	$120.00	
Public Law 82–356, Public Law 82–357, July 1, 1952.	1,400	2,700	$63, age 65 or after 10 yr $75.	$63, age 65 or after 10 yr $75.	$63, age 65 or after 10 yr $75.	$63, age 65 or after 10 yr $75.	129.00	
Public Law 83–698, Oct. 1, 1954	1,400	2,700	$66.15, age 65 or $78.75	$66.15, age 65 or $78.75	$66.15, age 65 or $78.75	$66.15, age 65 or $78.75	135.45	
Public Law 90–77, Oct. 1, 1967	1,400	2,700	$66.15, age 65 or after 10 yr $78.75.	$66.15, age 65 or after 10 yr $78.75.	$66.15, age 65 or after 10 yr $78.75.	$66.15, age 65 or after 10 yr $78.75.	135.45	100
Public Law 90–275, Jan. 1, 1969	1,600	2,900	$66.15, age 65 or after 10 yr $78.75.	$66.15, age 65 or after 10 yr $78.75.	$66.15, age 65 or after 10 yr $78.75.	$66.15, age 65 or after 10 yr $78.75.	135.45	100
Public Law 91–588, Jan. 1, 1971	1,900	3,200	$66.15, age 65 or after 10 yr $78.75.	$66.15, age 65 or after 10 yr $78.75.	$66.15, age 65 or after 10 yr $78.75.	$66.15, age 65 or after 10 yr $78.75.	135.45	100
Public Law 92–198, Jan. 1, 1972	2,200	3,500	$66.15, age 65 or after 10 yr $78.75.	$66.15, age 65 or after 10 yr $78.75.	$66.15, age 65 or after 10 yr $78.76.	$66.15, age 65 or after 10 yr $78.75.	135.45	100
Public Law 93–527, Jan. 1, 1975	2,600	3,900	$66.15, age 65 or after 10 yr $78.75.	$66.15, age 65 or after 10 yr $78.75.	$66.15, age 65 or after 10 yr $78.75.	$66.15, age 65 or after 10 yr $78.75.	135.45	100

TABLE 2.—HISTORICAL DEVELOPMENT OF CURRENT LAW PENSION FOR VETERANS

Law and effective date	Income limits		Rates of pension					
	Single	With dependent	Single	1 dependent	2 dependents	3 dependents	Aid and attendance	House-bound
Public Law 86–211, July 1, 1960	$1,800	$3,000	$85 down to $40	$90 down to $45	$95 down to $45	$100 down to $45	$70 added	
Public Law 88–664, Jan. 1, 1965	1,800	3,000	$100 down to $43	$105 down to $48	$110 down to $48	$115 down to $48	$100 added	$35 added.
Public Law 90–77, Oct. 1, 1967	1,800	3,000	$104 down to $45	$109 down to $50	$114 down to $50	$119 down to $50	$100 added	$40 added.
Public Law 90–275, Apr. 1, 1968	2,000	3,200	$110 down to $29	$120 down to $34	$125 down to $34	$130 down to $34	$100 added	$40 added.
Public Law 91–588, Jan. 1, 1971	2,300	3,500	$121 down to $29	$132 down to $34	$137 down to $34	$142 down to $34	$110 added	$44 added.
Public Law 92–198, Jan. 1, 1972	2,600	3,800	$130 down to $22	$140 down to $33	$145 down to $38	$150 down to $43	$110 added	$44 added.
Public Law 93–177, Jan. 1, 1974	2,600	3,800	$143 down to $28	$154 down to $39	$159 down to $44	$164 down to $49	$110 added	$44 added.
Public Law 93–527, Jan. 1, 1975	3,000	4,200	$160 down to $5	$172 down to $14	$177 down to $19	$182 down to $25	$123 added	$49 added.

The following table compares cost-of-living increases in relation to the pension rate increases:

TABLE 3.—PENSION RATES CORRELATED TO COST OF LIVING

Law	Effective date	Monthly rates, veteran and 3 or more dependents, minimal income	Consumer Price Index[1]	Percent of change in monthly pension rate over July 1933 rate	Percent of change in cost of living index over that for July 1933 [1]
Veterans Regulations 1(a)	July 1, 1933	$30.00	38.1		
Public Law 601, 77th Cong	June 10, 1942	40.00	48.8	33⅓	28.1
Public Law 313, 78th Cong	May 27, 1944	50.00	52.4	66⅔	37.5
Public Law 662, 79th Cong	Sept. 1, 1946	60.00	60.5	100.0	58.8
Public Law 356, 82d Cong	July 1, 1952	63.00	79.5	110.0	108.7
Public Law 698, 83d Cong	Oct. 1, 1954	66.15	80.4	120.5	111.0
Public Law 86–211	July 1, 1960	100.00	88.7	233.3	132.8
Public Law 88–664	Jan. 1, 1965	115.00	93.6	283.3	145.7
Public Law 90–77	Oct. 1, 1967	119.00	100.7	296.7	164.3
Public Law 90–275	Jan. 1, 1969	130.00	106.4	333.3	179.3
Public Law 91–588	Jan. 1, 1971	142.00	119.1	373.3	212.6
Public Law 92–198	Jan. 1, 1972	150.00	123.1	400.0	223.1
Public Law 93–177	Jan. 1, 1974	164.00	138.5	446.7	263.5
Public Law 93–527	Jan. 1, 1975	182.00	155.4	506.7	307.9

[1] As of January 1971, the CPI has been connected to the new base, 1967=100.

Current pension benefits and characteristics of pensioners

At present, then, under current law a veteran may be eligible for pension benefits if:

First, he served in the armed forces at least 90 days, including at least 1 day of service during wartime;

Second, his income does not exceed the limits specified in the law—currently, $3,000 if the veteran is single and $4,200 if he has a dependent;

Third, he is permanently and totally disabled (for the purposes of the pension law, veterans age 65 or older are totally disabled); and

Fourth, his net worth is not excessive as determined by the Veterans' Administration.

Widows and children of deceased wartime veterans are also eligible for pension benefits if they qualify on the basis of need.

As provided by Public Law 93–527, for an eligible veteran without dependents, the monthly pension rates range from $5 to $160 with a limitation on countable annual income of $3,000. Monthly rates of $14 to $172

are provided for veterans with dependents where the annual countable income does not exceed $4,200. Widows with no children are subject to the same income limitations as veterans alone, although the pension rates vary from $5 to $108. The $4,200 annual income limitation for veterans with dependents also applies to widows with children. The rates for widows with one child range from $49 to $128; the applicable rate is increased by $20 per month for each child in excess of one.

Currently, there are approximately 2 million veterans and widows receiving pension of whom 1,000,963 are veterans and the remainder are their widows. The present cost of the non-service-connected pension program is approximately $2.8 billion a year. The following table shows the distribution of all active compensation, dependency, and indemnity compensation and pension cash as of September 1975:

TABLE 4.—ACTIVE COMPENSATION, DEPENDENCY AND INDEMNITY COMPENSATION, PENSION AND RETIREMENT CASES, ALL WARS AND REGULAR ESTABLISHMENT, MONTH OF SEPTEMBER, 1975

Entitlement	Disability, total cases	Death, total cases	Death beneficiaries			
			Total	Widows	Children	Parents
Total	3,235,722	1,622,840	2,218,466	1,179,628	866,157	172,681
Service connected	2,221,514	368,676	491,961	211,012	108,268	172,681
Compensation	2,221,514	90,225	101,539	206	37	101,296
Dependency and indemnity compensation		273,519	380,004	206,202	108,030	65,772
Dependency and indemnity compensation and compensation		4,932	10,418	4,604	201	5,613
Non-service-connected	1,013,824	1,254,135	1,726,475	968,600	757,875	
Public Law 86-211	911,448	1,159,480	1,630,655	875,239	755,416	
Prior law	102,376	94,655	95,820	93,361	2,459	
Special acts	41	29	30	16	14	
Retired emergency officers	342					
Retired Reserve officers	1					
World War II	1,888,830	726,253	1,053,447	433,324	508,656	111,467
Service connected	1,303,265	191,189	222,256	95,073	15,716	111,467
Compensation	1,303,265	71,767	79,788	112	16	79,660
Dependency and indemnity compensation		115,768	134,833	91,499	15,611	27,723
Dependency and indemnity compensation and compensation		3,654	7,635	3,462	89	4,084
Non-Service-connected	585,565	535,064	831,191	338,251	492,940	
Public Law 86-211	576,344	532,032	827,959	335,237	492,722	
Prior law	9,221	3,032	3,232	3,014	218	
World War I	419,194	614,648	630,385	602,722	27,283	380
Service connected	53,519	34,880	35,496	34,027	1,089	380
Compensation	53,519	186	198	55	1	142
Dependency and indemnity compensation		34,690	35,290	33,968	1,088	234
Dependency and indemnity compensation and compensation		4	8	4		4
Non-service-connected	365,332	579,768	594,889	568,695	26,194	
Public Law 86-211	273,711	507,486	521,873	496,488	25,385	
Prior law	91,621	72,282	73,016	72,207	809	
Special acts	1					
Retired emergency officers	342					
Korean conflict	293,663	136,363	287,116	49,252	213,544	24,320
Service connected	239,869	39,381	51,373	18,728	8,325	24,320
Compensation	239,869	14,798	17,535	14	2	17,519
Dependency and indemnity compensation		23,620	31,777	17,841	8,294	5,642
Dependency and indemnity compensation and compensation		963	2,061	873	29	1,159
Non-service-connected	53,794	96,982	235,743	30,524	205,219	
Public Law 86-211	52,779	96,914	235,651	30,458	205,193	
Prior law	1,015	68	92	66	26	
Vietnam era	438,407	72,344	153,528	38,372	93,135	22,021
Service connected	430,561	54,852	114,032	30,861	61,150	22,021
Compensation	430,561	26	38	9	14	15
Dependency and indemnity compensation		54,802	113,915	30,835	61,100	21,980
Dependency and indemnity compensation and compensation		24	79	17	36	26
Non-service-connected	7,846	17,492	39,496	7,511	31,985	
Public Law 86-211	7,846	17,492	39,496	7,511	31,985	
Regular establishment	194,324	48,122	68,547	32,095	21,959	14,493
Service connected	194,283	48,110	68,585	32,083	21,959	14,493
Compensation	194,283	3,448	3,980	16	4	3,960
Dependency and indemnity compensation		44,375	63,920	31,819	21,908	10,193
Dependency and indemnity compensation and compensation		287	635	248	47	340
Special acts	40	12	12	12		
Retired Reserve officers	1					
Spanish-American War	929	24,078	24,394	23,048	1,346	

TABLE 4.—ACTIVE COMPENSATION, DEPENDENCY AND INDEMNITY COMPENSATION, PENSION AND RETIREMENT CASES, ALL WARS AND REGULAR ESTABLISHMENT, MONTH OF SEPTEMBER, 1975—Continued

Entitlement	Disability, total cases	Death, total cases	Death beneficiaries			
			Total	Widows	Children	Parents
Service connected	9	253	258	236	22	
Compensation	9					
Dependence and indemnity compensation		253	258	236	22	
Non-service-connected	920	23,816	24,127	22,809	1,318	
Public Law 86-211	401	4,989	51,00	4,985	115	
Prior law	519	18,827	19,027	17,824	1,203	
Special acts		9	9	3	6	
Mexican Boarder Service	375	569	578	562	16	
Service connected	8	2	2	2		
Compensation	8					
Dependency and indemnity compensation		2	2	2		
Non-service-connected	367	567	576	560	16	
Public Law 86-211	367	567	576	560	16	
Indian wars		78	79	64	15	
Service connected		1	1		1	
Dependency and indemnity compensation		1	1		1	
Non-service-connected		76	77	63	14	
Prior law		76	77	63	14	
Special acts		1	1	1		
Civil War		385	392	189	203	
Service-connected		8	8	2	6	
Dependency and indemnity compensation		8	8	2	6	
Non-service-connected		370	376	187	189	
Prior law		370	376	187	189	
Speical acts		7	8		8	

Over 11 percent of veterans and 15⅓ percent of pension widows reported no other outside income other than pension, thus leaving these recipients far below the poverty level. The annual income of pensioners (other than their pensions and excludable income) is shown in the following tables:

TABLE 5.—ALL VETERANS ON PENSION ROLLS, APR. 20, 1975

Annual income not over—	Total	Old law	New law	Annual income not over—	Total	Old law	New law
$100	158,507	9,121	149,386	$2,200	33,351	4,672	28,679
$200	4,229	656	3,573	$2,300	37,995	5,359	32,606
$300	4,233	576	3,657	$2,400	39,391	6,686	32,705
$400	3,424	540	2,884	$2,500	39,860	4,621	35,239
$500	3,648	452	3,196	$2,600	42,534	5,355	37,179
$600	3,155	429	2,726	$2,700	39,321	3,388	35,933
$700	3,296	434	2,862	$2,800	35,343	2,803	32,540
$800	2,766	386	2,380	$2,900	26,312	2,817	23,495
$900	8,524	482	8,042	$3,000	26,248	2,937	23,311
$1,000	15,057	795	14,262	$3,100	20,882	2,867	18,015
$1,100	37,638	3,291	34,419	$3,200	18,504	2,939	15,565
$1,200	18,966	1,570	17,396	$3,300	16,306	2,842	13,464
$1,300	18,946	1,627	17,319	$3,400	14,480	2,898	11,582
$1,400	21,777	2,025	19,752	$3,500	13,942	2,899	11,043
$1,500	28,581	2,676	25,905	$3,600	12,790	2,257	10,533
$1,600	29,112	2,754	26,358	$3,700	11,549	1,972	9,577
$1,700	33,439	3,436	30,003	$3,800	12,621	1,448	11,173
$1,800	31,524	3,520	28,004	$3,900 to $4,200	28,919	1,115	27,804
$1,900	34,390	4,183	30,207				
$2,000	33,722	4,401	29,321	Total	1,000,963	108,232	892,731
$2,100	35,604	5,028	30,576				

TABLE 6.—ALL WIDOWS ON PENSION ROLLS, APR. 20, 1975

Annual income not over—	Total	Old law	New law	Annual income not over—	Total	Old law	New law
$100	126,514	2,001	124,513	$2,200	44,530	8,713	35,817
$200	4,987	153	4,834	$2,300	40,565	6,432	34,133
$300	6,460	147	6,313	$2,400	45,388	7,979	37,409
$400	5,695	142	5,553	$2,500	36,656	3,783	32,873
$500	6,200	162	6,038	$2,600	38,456	2,517	35,939
$600	7,576	238	7,338	$2,700	28,935	28	28,367
$700	7,510	283	7,227	$2,800	21,787	41	21,746
$800	8,137	259	7,878	$2,900	11,822	34	11,788
$900	10,838	334	10,504	$3,000	7,319	37	7,282
$1,000	28,745	1,133	27,612	$3,100	2,071	30	2,041
$1,100	53,584	2,180	51,404	$3,200	1,191	27	1,884
$1,200	26,162	1,603	24,559	$3,300	1,681	28	1,653
$1,300	27,936	1,943	25,993	$3,400	1,630	17	1,631
$1,400	31,472	2,789	28,683	$3,500	1,595	21	1,574
$1,500	37,419	3,555	33,864	$3,600	1,533	14	1,519
$1,600	37,068	3,734	33,334	$3,700	1,376	24	1,352
$1,700	38,291	4,239	34,052	$3,800	2,721	5	2,226
$1,800	39,942	4,869	35,072	$3,900 to $4,200	4,588	15	4,573
$1,900	42,548	5,652	36,896				
$2,000	45,682	5,971	39,711	Total	931,575	77,356	854,219
$2,100	45,185	6,209	38,976				

Consideration of proposals to restructure the non-service-connected pension program in the 93d and 94th Congress

During the 93d Congress, the Committee examined a number of approaches for adjusting the pension system. In testimony before the Subcommittee on Compensation and Pensions on June 18, 1973, representatives of the Veterans' Administration asserted that there were a number of "inconsistencies, inequities, and anomalies in the present pension system." They advocated that there be a thorough examination and complete revision of the system which they believed could be developed quickly, but did not offer any formal draft of legislation to accomplish this.

Subsequent to the hearings of June 18, the Senate and House Committee staff members met with representatives of the administration in an attempt to reduce the suggestions of the testimony to a more concrete form. At the meeting, it was obvious that there was a serious lack of pertinent data required by Congress before it can make any rational determination of any proposed new pension system. In general, this information was not forthcoming during 1973, nor did the Committee receive a formal draft proposal. Accordingly, while agreeing to further investigate the entire pension system, the Committee concluded that action was needed on an immediate cost-of-living measure and introduce legislation (S. 275) to accomplish it.

S. 275 was ultimately enacted as Public Law 93-177 and provided for a 10-percent increase in the rates effective January 1, 1974.

In signing Public Law 93-177, on December 6, 1973, the President stated:

"While this bill is a step in the right direction, more can be done—and should be done. As I mentioned in my message to the Congress on national legislative goals on September 10, 1973, full reform of the Veterans' Administration pension program is necessary. The program is currently fraught with inconsistencies, inequities, and anomalies, which cannot be corrected unless the entire framework of the program is restructured.

"This administration regards the following principles as vital to a realistic and equitable VA pension program:

"VA pensioners should have some regularized way of receiving cost-of-living adjustments in VA pension payments tied to automatic increases now available to social security recipients.

"The VA pension program should be restructured to assure that additional income flows to the neediest pensioners. This objective would involve raising VA payments to those pensioners who receive less total income than adult welfare recipients under recent amendments to the Social Security Act. In addition, a family's total income should be considered in determining the amount of pension needed.

"Veterans and widows should be treated equally with regard to income and pension payments."

In his message on veterans of January 28, 1974, the President repeated the foregoing and stated that he would propose legislation.

On March 15, 1974, the administration submitted a formal draft provision proposal. According to the administration:

The enclosed draft measure would (1) fill the gap between the resources available to a veteran and his dependents and a national minimum standard of need; (2) treat veterans and widows equally with regard to income and benefit amount; (3) eliminate the inequities arising from exclusions of income—consideration of family income as a whole; (4) contain an automatic cost-of-living adjustment working simultaneously with that applicable to social security and eliminate the lag in adjusting pension for increase in income; (5) provide benefits which guarantee a minimum income of $166 per month for a single person and $249 per

month for a person with one dependent; and (6) provide a hold-harmless provision to permit present recipients of pension to continue receiving benefits under the present provisions of law with a 4-percent rate increase and thereafter, automatic cost-of-living increases.

On receipt of the administration's formal request, the Committee intensified its efforts to obtain relevant information from the VA with which to assess the full impact of this proposal.

It soon became apparent that the VA lacked basic, timely information in detail. Further, the Veterans' Administration lacked sufficient analytical staffing and did not have an advanced computer model necessary to make an adequate analysis of its own proposal, let alone the possible variations being considered by the Committee. These inadequacies continued throughout 1973 and 1974. A series of six memoranda were exchanged with the VA. Each memorandum occasioned delays by the VA; some information was submitted months beyond the Committee's requested deadlines. From information then currently available to the Committee, it was apparent that the actual proposals made by the VA would be unduly restrictive and unacceptable in operation. Few of the veterans or widows in need of pension could qualify under the new system submitted by the Veterans' Administration. For example, if the proposed pension system had been applied to the present population of veterans and widows receiving VA pensions—which was not the VA proposal—almost two-thirds would have been ineligible for receipt of pension under the new system. Accordingly, it was obvious that variations had to be considered and additional information was necessary before the Committee could proceed with any pension restructuring.

Meanwhile, given the uncertainties and the unanswered questions, the Committee believed that it was necessary to proceed with an interim cost-of-living measure in order to protect VA pensioners from the continued toll of inflation.

Thus, Congress enacted S. 4040, the "Veterans and Survivors Pension Adjustment Act of 1974" as Public Law 93–527. In addition to providing an average 12-percent increase in the rates of pension and a $400 increase in the maximum annual income limitations, Public Law 93–527 also directed the Administrator of Veterans' Affairs to carry out an original study of the needs and problems of veterans and their widows 72 years of age and older. The statute directed the study to include a profile of the current income characteristics of such veterans and their widows describing the proportion and amount of such income from all sources, and the average cost for all necessities such as rent, food, medical care, and other items. The study was also to evaluate the adequacy of the present veterans' pension system and provide actuarial information concerning present expected mortality rates of such pensioners. The study was submitted to the Committee on July 22, 1975.

With each succeeding pension adjustment enacted into law, it has become increasingly clear that the entire pension system needs to be overhauled, if it is to be fully responsive to the needs of our veterans and their survivors. The stopgap approach of responding to social security increases and tinkering with the pension rate decrement system distorts the formula and further prevents it from working properly. Thus, our neediest pensioners are not receiving adequate benefits while at the same time, in some cases, other pensioners are receiving pensions under questionable circumstances. Further, thousands of veterans and widows each year complain bitterly about pension reductions even following congressional action which increases rates and annual income limitations.

Accordingly, staff activity was intensified at the beginning of the 94th Congress to obtain adequate relevant information from the Veterans' Administration in order to restructure the entire program.

Previously, on November 11, 1974, Chairman Hartke sent a detailed letter to Administrator Roudebush noting the many problems the Committee had in obtaining adequate accurate information, and relaying particular concern that an adequate computer simulation model be developed which could predict with great assurance the operation and effect of various alternative pension proposals.

That letter which is reprinted in full in the AGENCY REPORTS *infra*, noted problems in obtaining information on timely basis and cited a study by the Congressional Research Service conducted at the Committee's request concluded that chief problems of the Veterans' Administration in responding to Committee inquiries concerning pension restructuring were:

"Inadequate analytical staff in the Veterans' Administration devoted to VA pension reform effort (a potentially solvable problem).

"Inadequate data (only partly amenable to solution).

"Competing computer models, which are by themselves only partially capable of answering Committee concerns.

"A tangled administrative structure which now seems incapable of resolving these problems and making timely responses to Committee inquiry."

In Chairman Hartke's letter to Administrator Roudebush, he noted that:

"Each of the foregoing presents serious problems which I believe should be brought to your personal attention. In particular, I want to emphasize my strong belief that a properly functioning computer model with adequate data is absolutely necessary if there is to be a serious consideration of pension restructuring in the near future by the Committee as has been advocated by the administration."

The letter also observed that a principal problem was:

"* * * that the computer model used by the Veterans' Administration fails to age pensioners. As a consequence, the computer model is unable to properly estimate future accessions to any new pension system that may be adopted. Second, it is unable to properly estimate terminations due to death, or excess income for those 'grandfathered' pensioners who would choose to remain under the current pension system. And third, it is unable to provide reasonably accurate estimates of the number of cases switching from the current pension system to any new system that might be enacted."

"This inability to reasonably project the nature and extent of the future caseload, of course, means that it is impossible to estimate cost impact with any degree of accuracy. Also, failure to estimate the impact of the existence of other Federal programs such as Supplemental Security Income will distort the actual net cost of any new veterans legislation to the Federal Government."

In response, Administrator Roudebush indicated that he had instructed the Veterans' Administration to proceed rapidly to the development of a more sophisticated computer simulation model capable of producing information long desired by the Committee. In the interim, additional information for which an advanced computer simulation model was not necessary, was requested and received by the committee staff during the early part of this year. On April 1, 1975, the Administrator informed the Committee that the long-awaited new computer simulation model was operational. The Committee then requested considerable information to be processed by the computer simulation model in a series of memos dated April 11, May 19, June 3, and June 25. Generally, the bulk of the information requested was promptly supplied by the Veterans' Administration with the material requested in the last mentioned memo received by July 15 of this year. Also on July 22, the Veterans' Administration transmitted its Study of the Needs of Older Veterans and Widows as required by section 8 of Public Law 93–527.

VA study of the needs of older veterans and widows

Graphic evidence that the current pension system is not fulfilling its objectives can be found in the recent study of the needs of older veterans and widows recently completed by the Veterans' Administration.

In considering pension legislation last fall, the Committee indicated that it continued to receive complaints from elderly pensioners, particularly World War I veterans and their survivors about the inadequacy of the VA pension system. In addition to the Committee's difficulties in assessing various pension proposals as previously outlined, the Committee was hampered by the fact that the Veterans' Administration does not regularly collect annual income data about pensioners over the ages of 72. Consequently, section 8 of S. 4040, which was later enacted as Public Law 93–527 provided:

The Administrator of Veterans' Affairs shall carry out an original study of the needs and problems of veterans and their widows seventy-two years of age or older. The study shall include (1) a profile of the current income characteristics of such veterans and their widows, describing the proportion and amount of such income from all sources and the average necessary for all necessities such as rent, food, medical care, and other items; (2) an evaluation of the adequacy of the present veterans pension system to meet the needs of such veterans and their widows; and (3) actuarial information concerning the present expected mortality rates of such veterans and their widows.

The law further directed a report of the results be furnished the President and the Congress together with any recommendations for legislative or administrative action to improve the present program of pension benefits for such veterans and widows.

The required study was transmitted to the Committee by Administrator Roudebush on July 22, 1975 (Senate Committee Print No. 16, 94th Cong. 1st Sess.).

An examination of that study's protocol and procedures reveal them to be competent and well done. The actual survey was conducted with professionalism and a sensitivity that is too often rare today. The raw data produced by the study has been of great value to the Committee. This data revealed for example that large numbers of veterans and widows had incomes below the poverty level. Thirty percent of the veterans and nearly 37 percent of the widows interviewed reported they could not afford all the food they need (table 28). And 25.1 percent of the veterans and 20.9 percent of the widows cannot afford to pay for all the medical attention they need (table 30). Nearly 36 percent reported problems concerning adequate housing (table 29).

INADEQUACIES OF THE CURRENT PENSION SYSTEM

Structural problems and inflation

A close examination of the data received by the Committee in the past 2 years, the VA's own recent study of the needs of older veterans, and continued exposure of anomalies and inequities inherent in the present pension program all combine to argue for fundamental restructuring now.

At the same time, it should be acknowledged that the present pension program has not served us badly over the years. The difficulties experienced today are often the result of circumstances outside the initial basic

design of the program itself. In large part, the present pension program has been a progressive one which has in the main aided those needy veterans and survivors for which it was designed. Increasing legislative refinements in recent years, as previously discussed, have mitigated many problems which developed or became apparent during the operation of the program. But, when the current pension program was first enacted into law in 1959, it was impossible to gauge the very rapid increases in the Consumer Price Index and substandard increases in social security payments which would occur in the succeeding years. These changes which have distorted the basic formula system and together with various statutory income exclusions have produced today's very evident inequities.

Similarly-circumstanced pensioners, with identical outside incomes but from different sources, can receive radically different pensions. And although the number of cases are not excessive, VA testimony about veterans receiving pensions, even where their spouses have incomes in excess of $20,000 a year, strikes heavily at the principle of a need-based pension program and, at best, is an unwise allocation of available tax dollars under the pension program.

The following table supplied by the Veterans' Administration last year revealed the following distribution of reportable income:

TABLE 7.—REPORTABLE INCOME—CURRENT PENSION PROGRAM

[Figures based on 1973 expected income data]

Veterans with dependents—Total on VA rolls		584,389
Veterans with dependents with gross income over limitations:		
Income increment		Cases
$3,800 to $4,000	153,392 cases with income between $3,800 and $5,000	26,416
$4,000 to $4,500		58,983
$4,500 to $5,000		47,993
$5,000 to $5,500	101,833 cases with income between $5,000 and $10,000	34,684
$5,500 to $6,000		22,585
$6,000 to $6,500		8,066
$6,500 to $7,000		7,058
$7,000 to $7,500		7,058
$7,500 to $8,000		5,646
$8,000 to $8,500		5,545
$8,500 to $9,000		3,428
$9,000 to $9,500		3,831
$9,500 to $10,000		3,932
Over $10,000		15,225
Total		250,450

Gross amounts of annuities and spouses' income are included.
Childrens' income, if any, not included.

Continued tinkering with the current formula system with periodic enactment of pension adjustment laws has not resulted in proportional increases which accurately reflect the varying needs of veterans and widows. That is, larger increases have gone to less needy pensioners while the neediest have received smaller increases which continue to leave them substantially below acknowledged poverty levels. Further, the formal rate system is presently structured so that the same or nearly the same amount of pension is paid to veterans and widows at the lower end of the economic scale, even though their actual incomes may vary substantially. For example, the rate structure for a widow with a dependent and no income provides a pension of $128 a month, identical to the rate payable to one who has $700 of unearned income. And, the formula rate structure pays only $3 a month more to such a widow than to one with $1,000 of nonpension income.

These problems inherent in the rate system intensify with continuing changes in the Consumer Price Index and resulting periodic rate adjustments. This in turn makes it increasingly difficult to meet fully the objectives of an equitable need-based pension program by simply adjusting the current formula system.

The Veterans' Administration acknowledged this in 1974 in an appearance before the Senate Committee, when it testified that the VA opposed pending rate adjustment legislation because—

"The people who would get the greatest benefit of a cost-of-living increase, would be people at the upper end of the scale, because it is a flat percentage. On the other hand, the people on the lower end of the scale, would remain in a relatively poor position."

The Veterans' Administration further added—

"An untoward amount of dollars available are devoted to providing pension benefits to those beneficaries who are at the top limits of the income scale. Thus, the basic philosophy of providing a proportionate measure of assistance to those who need it has been distorted."

The immediate need to restructure the pension system now to eliminate the inconsistencies, inequities, and anomalies and to provide a truly equitable need-based pension program is further underscored by the projected large increases in potential pensioners in the near future. The number of veterans 65 years and older will more than triple by 1990 to almost 8 million. The average World War II veterans is 54.4 years old. According to the VA projections there will be 9,255,000 World War II veterans in 1990 of whom some 7.5 million will be 65 or over. That means that out of every 10 World War II veterans alive today, 6 will be living in 1990 and 85 percent of these will be at least 65 years of age and potentially eligible for veterans pension.

The aging veteran population now comprises approximately 27 percent of our Nation's total male popuulation age 65 or older. By 1985, this is expected to rise to 60 percent and by 1995, 75 percent. The following table shows the distribution of estimated age of veterans and civilian life by period of service:

TABLE 8.—ESTIMATED AGE OF VETERANS IN CIVIL LIFE JUNE 30, 1975

[In thousands]

Age	Total veterans	War Veterans							Service between Korean conflict and Vietnam era only [5]
		Total [1]	Vietnam era [2]		Korean conflict		World War II [4]	World War I	
			Total [3]	No service in Korean conflict	Total [3] [4]	No service in World War II			
All ages	[6] 29,459.0	[6] 29,367.0	7,597.0	7,094.0	5,973.0	4,723	13,586.0	963.0	3,092.0
Under 20 yr	57.0	57.0	57.0	57.0	----	----	----	----	----
20 to 24 yr	1,013.0	1,013.0	1,013.0	1,013.0	----	----	----	----	----
25 to 29 yr	3,522.0	3,503.0	3,503.0	3,503.0	----	----	----	----	19.0
30 to 34 yr	2,928.0	2,137.0	2,137.0	2,137.0	----	----	----	----	791.0
35 to 39 yr	2,301.0	633.0	360.0	339.0	294.0	294	----	----	1,668.0
40 to 44 yr	3,115.0	2,543.0	181.0	33.0	2,510.0	2,505	5.0	----	572.0
45 to 49 yr	3,994.0	3,958.0	169.0	8.0	2,158.0	1,789	2,161.0	----	36.0
50 to 54 yr	4,899.0	4,893.0	96.0	3.0	545.0	106	4,784.0	----	6.0
55 to 59 yr	3,676.0	3,676.0	57.0	1.0	289.0	21	3,654.0	----	----
60 to 64 yr	1,752.0	1,752.0	20.0	[7]	115.0	8	1,744.0	----	----
65 to 69 yr	887.0	887.0	4.0	[7]	43.0	[7]	887.0	----	----
70 to 74 yr	260.0	260.0	[7]	[7]	14.0	[7]	253.0	7.0	----
75 to 79 yr	516.0	516.0	----	----	4.0	----	87.0	429.0	----
80 to 84 yr	434.0	434.0	----	----	1.0	----	9.0	425.0	----
85 yr and over	[6] 105.0	[6] 105.0	----	----	[7]	----	2.0	102.0	----
Average age [8]	45.9	47.0	29.6	28.3	45.8	43.9	55.4	80.3	36.7

[1] Veterans who served in both World War II and the Korean conflict, and in both the Korean conflict and the Vietnam era are counted once.
[2] Service between Aug. 4, 1964 and May 8, 1975.
[3] Includes 503,000 veterans who served in both the Korean conflict and the Vietnam era.
[4] Includes 1,250,000 veterans who served in both World War II and the Korean conflict.
[5] Former members of the Armed Forces whose only service was on actice duty between Jan. 31, 1955 and Aug. 5, 1964.
[6] Includes 1,000 Spanish-American War veterans, average age 95.5 yr.
[7] Less than 0.5 (thousand).
[8] Computed from single-year of age data.

Veterans and widows pensioners below poverty level

The Committee was shocked to discover that substantial numbers of veterans and surviving spouses have incomes below the poverty level despite receipt of VA pensions. In fact, 34.13 percent of single veterans in receipt of pensions had incomes lower than the poverty level of $2,590. Further, close to half of all "pension widows" in receipt of pension were below the poverty level. Additionally, the median income for pension widows with one dependent was below the poverty level of $3,410 (poverty level for a family of two). The following tables graphically illustrate the income levels of pension recipients. The poverty level for a single person is $2,590; for a couple, $3,410. Maximum pension for a veteran is $1,920; a widow, $1,296; and veteran and spouse, $2,064; and a widow and dependents, $1,536.

TABLE 9.—*Pensioner's available income—Veteran—No dependent*

POVERTY LEVEL

Total income:	Veterans
$1,920	82,756
$2,020	3,004
$2,120	1,960
$2,220	1,976
$2,284	1,263
$2,348	1,222
$2,400	1,125
$2,452	1,383
$2,504	1,047
$2,556	4,760
$2,596	9,231
$2,746	19,550
$2,796	9,694
$2,846	9,652
$2,896	10,656
$2,946	13,342
$2,984	13,275
$3,022	14,498
$3,060	12,628
$3,098	12,924
$3,124	11,924
$3,150	11,816
$3,176	10,361
$3,202	11,282
$3,216	10,815
$3,230	11,466
$3,244	13,155
$3,258	9,857
$3,272	7,903
$3,286	3,695
$3,360	2,888

TABLE 10.—PENSIONER'S AVAILABLE INCOME—VETERAN—1 DEPENDENT

Total income:	Veterans
$2,064	61,662
$2,164	1,964
$2,264	1,613
$2,364	1,681
$2,465	1,621
$2,565	1,974
$2,640	1,601
$2,716	1,479
$2,780	1,333
$2,844	3,282
$2,908	5,031
$3,082	14,869
$3,156	7,702
$3,230	7,667
$3,304	9,096
$3,378	12,563

POVERTY LEVEL

$3,452	13,083
$3,526	15,505
$3,600	15,376
$3,662	17,283
$3,724	17,397
$3,786	18,760
$3,848	18,318
$3,910	21,324
$3,972	21,890
$4,034	23,773
$4,096	24,024
$4,158	26,076
$4,220	24,632
$4,282	19,800
$4,344	20,423
$4,394	18,015
$4,444	15,565
$4,494	13,464
$4,544	11,582
$4,594	11,043
$4,632	10,533
$4,670	9,577
$4,708	11,173
$4,734, $4,760, $4,774, $4,788	27,804

TABLE II.—*Pensioner's available income—Widow—No dependent*

Total income:	Widows
$1,296	109,336
$1,396	5,332
$1,496	4,381
$1,596	5,456
$1,684	3,937
$1,772	4,194
$1,860	4,607
$1,924	4,729
$1,988	4,393
$2,052	6,921
$2,104	23,409
$2,266	47,455
$2,328	19,989
$2,390	21,165
$2,452	24,118
$2,514	28,328
$2,576	27,496

POVERTY LEVEL

$2,638	29,085
$2,700	29,117
$2,762	30,308
$2,824	31,246
$2,886	30,864
$2,936	30,467
$2,986	29,346
$3,036	33,396
$3,086	29,600
$3,136	33,027
$3,186	25,793
$3,236	19,375
$3,286	9,580
$3,360	4,960

TABLE 12.—*Pensioner's available income—widow—one dependent*

Total income:	Widows
$1,536	9,373
$1,636	472
$1,736	453
$1,836	857
$1,936	1,616
$2,036	1,844
$2,136	2,731
$2,236	2,498
$2,324	3,485
$2,412	3,583
$2,500	4,203
$2,698	3,949
$2,784	4,570
$2,870	4,828
$2,956	4,565
$3,042	5,536
$3,129	5,838
$3,214	4,967
$3,300	5,956
$3,386	6,588

POVERTY LEVEL

$3,472	8,465
$3,558	8,112
$3,632	5,350
$3,706	4,769
$3,780	4,013
$3,854	3,273
$3,928	2,912
$4,002	2,574
$4,076	2,371
$4,150	2,208
$4,224	2,322
$4,286	2,041
$4,348	1,884
$4,410	1,653
$4,472	1,613
$4,534	1,574
$4,596	1,519
$4,658	1,352
$4,768	2,266
$4,878, $4,988, $5,098, $5,208	4,573

The tragedy of large numbers of pensioners forced to live below the poverty level is best understood when the significance of the poverty level threshold is understood and the statistics for pensioners are compared with the population as a whole.

An examination of the current pension system within the context of "poverty levels", demonstrates that within the statistical framework many recipients of veterans pensions are unable to assume a standard of living sufficient to supply the bare necessities. For instance, of the single veterans in receipt of pension, 34.13 percent had incomes insufficient to remove them from categorization of "below the poverty level." Further, 25.7 percent of pension veterans without dependents had a total income comprised solely of veterans' pension; an income less than three-fourths that of the poverty threshold of $2,590.

While close to 11 percent of veterans with a dependent relied upon the veterans pension as their sole source of income, more than 135,000 veterans with dependents (or 24 percent of veterans with dependents) had incomes, including their pension, which was insufficient to elevate the couple from the ranks of the "economically disadvantaged." Additionally, although the current pension system is benignly regarded as a need-based system, 34.1 percent of the veteran recipients were below the poverty level as compared to a national average of 26 percent. These figures indicate that the pension system does not afford a veteran the opportunity to live his life out in dignity. Perhaps the most devastating attribute of the current pension structure can be noted when a veteran is in receipt of the maximum entitlement allowed. A veteran with a dependent receiving the maximum entitlement of $2,064 a year is in the bottom 3 percent of all families with regard to total income. Discouragingly, close to 62,000 veterans with dependents (or 11 percent of the veteran with dependents category) are recipients of only $2,064 a year.

The median income for an American family (including husband and wife) is $12,836 as shown by the following table:

TABLE 13.—NUMBER OF FAMILIES AND UNRELATED INDIVIDUALS BY TOTAL MONEY INCOME IN 1974

[Families and unrelated individuals as of March 1975]

Total money income	Number of— Families	Unrelated individuals
Total	55,712,000	18,872,000
Under $1,000	701,000	1,189,000
$1,000 to $1,999	766,000	2,171,000
$2,000 to $2,999	1,489,000	3,231,000
$3,000 to $3,999	2,040,000	2,175,000
$4,000 to $4,999	2,305,000	1,526,000
$5,000 to $5,999	2,475,000	1,375,000
$6,000 to $6,999	2,478,000	1,202,000
$7,000 to $7,999	2,501,000	1,025,000
$8,000 to $9,999	5,203,000	1,613,000
$10,000 to $11,999	5,702,000	1,185,000
$12,000 to $14,999	7,879,000	1,047,000
$15,000 to $19,999	10,032,000	923,000
$20,000 to $24,999	5,755,000	
$25,000 and over	6,384,000	209,000
Median income	12,836	4,439

The table reveals that the number of families below the poverty level set for a couple ($3,410) is approximately 3,058,000 or 5.4 percent of all families in America. Presently one quarter of pension veterans with dependents are below the poverty level; an income which causes them to rank with the lowest 5 percent of families in the population as a whole. For single unrelated individuals, the results are as startling when one considers that veterans pensions are termed need-based and are regarded as a "preferred" income maintenance mechanism. Whereas, the single veteran pensioner's median income is approximately $2,900 the national median for unrelated individuals is $4,439 or 150 percent greater.

As indicated previously, 64.5 percent of all pension widows are 65 years and older. The 48.52 percent poverty level rate for pension widows compares unfavorably with the 18.3 percent for females 65 years old and older generally. The following table demonstrates income breakdown by age and sex. Note that the below poverty level rate for men 65 years and older is only 11.8 percent—less than one-quarter the rate of "poverty pension widows".

TABLE 14. AGE—PERSONS BY LOW-INCOME STATUS IN 1974, RACE, AND SEX

[Numbers in thousands, Persons as of March 1975]

Age	All races Total	All races Below low-income level Number	All races Below low-income level Percent of total	White [1] Total	White [1] Below low-income level Number	White [1] Below low-income level Percent of total	Negro [1] Total	Negro [1] Below low-income level Number	Negro [1] Below low-income level Percent of total
BOTH SEXES									
Total	209,343	24,260	11.6	182,355	16,310	8.9	23,705	7,456	31.5
Under 3 yr	9,159	1,593	17.4	7,624	1,020	13.4	1,364	544	39.9
3 to 5 yr	10,293	1,701	16.5	8,575	1,061	12.4	1,533	604	39.4
6 to 13 yr	29,944	4,834	16.1	25,189	2,921	11.6	4,251	1,817	42.8
14 and 15 yr	8,434	1,192	14.1	7,142	707	9.9	1,164	461	39.6
16 to 21 yr	23,944	2,953	12.3	20,512	1,822	8.9	3,079	1,069	34.7
22 to 44 yr	63,371	5,192	8.2	55,439	3,640	6.6	6,687	1,409	21.1
45 to 54 yr	23,586	1,645	7.0	21,045	1,102	5.2	2,218	506	22.8
55 to 59 yr	10,362	925	8.9	9,380	704	7.5	866	203	23.5
60 to 64 yr	9,124	917	10.1	8,243	692	8.4	819	217	26.5
65 yr and over	21,127	3,308	15.7	19,206	2,642	13.8	1,722	626	36.4
5 to 17 yr, total	49,947	7,656	15.3	42,115	4,585	10.9	7,026	2,927	41.7
Related children 5 to 17 yr	49,798	7,524	15.1	41,998	4,482	10.7	6,998	2,901	41.5
MALE									
16 yr and over	72,061	5,571	7.7	64,015	4,016	6.3	6,926	1,390	20.1
16 to 21 yr	11,821	1,336	11.3	10,193	801	7.9	1,448	496	34.3
22 to 44 yr	30,971	1,893	6.1	27,410	1,449	5.3	2,966	370	12.5
45 to 54 yr	11,366	616	5.4	10,194	434	4.3	1,017	165	16.2
55 to 59 yr	4,931	343	7.0	4,477	267	6.0	388	70	18.0
60 to 64 yr	4,250	350	8.2	3,848	268	7.0	379	80	21.1
65 yr and over	8,722	1,033	11.8	7,893	797	10.1	728	209	28.7
FEMALE									
16 yr and over	79,452	9,371	11.8	69,812	6,583	9.4	8,466	2,640	31.2
16 to 21 yr	12,123	1,619	13.4	10,319	1,020	9.9	1,630	573	35.2
22 to 44 yr	32,400	3,300	10.2	28,030	2,190	7.8	3,722	1,039	27.9
45 to 54 yr	12,220	1,029	8.4	10,851	668	6.2	1,201	341	28.4
55 to 59 yr	5,431	582	10.7	4,903	436	8.9	479	134	28.0
60 to 64 yr	4,874	566	11.6	4,396	424	9.6	439	136	31.0
65 yr and over	12,404	2,275	18.3	11,313	1,845	16.3	995	417	41.9

[1] The data on persons by race differ from those shown in other tables where persons are classified by race of the family head.

Presently widows of veterans are entitled to a maximum pension of $1,296 a year ($108 a month), just about half the poverty level. For 109,336 pension widows the $1,296, which equals 40 cents a meal totaled their entire income. Hence, fully 15.36 percent of pension widows with no dependents received the maximum entitlement, and, yet, were fully 50 percent below the poverty level. This meager subsistence level places a female whose sole source of income is the $1,296 VA pension in the lowest 9 percent of all unrelated individuals in income received. But another way, fully 91 percent of unrelated individuals in America have more income than the widow whose sole source of income is the maximum veteran pension entitlement despite the widow's eligibility for pensions as a result of her husband having served his country in time of war. Further, from 1974 to 1975, the number of widows whose sole income was the $1,296 widows pension, rose 1.8 percent. It is difficult to assess a pension system as a "preferred" one wherein recipients are left at the very bottom of the economic totem pole.

Thus, not only does the present maximum entitlement fail to accord recipients a standard of living sufficient to supply necessities, but also falters when viewed in comparison to the population as a whole.

To further understand the Committee's dismay with the inability of the current pension system to assure a life of dignity for its recipients, a cursory look at the poverty level is required. It must be understood that the poverty level is not the only level by which living standards are measured. Neither is the assurance of a life style above the poverty level one which permits a recipient a life relieved of economic woes. In evaluating the needs of aged pensioners, consideration should be given to the Bureau of Labor Statistics release of August 1, 1975, on "Three Budgets for a Retired Couple, Autumn 1974." According to the news release, in the Fall of 1974, the estimated U.S. average annual cost of the budget for an urban retired couple, excluding personal income taxes, amounted to approximately $4,228 at the lower level, and $6,041 and $8,969 at the intermediate and higher levels. The budget costs were based on three hypothetical lists of goods and services specified in the mid-1960's to portray the three standards of living. Since the Fall 1974 updating, the costs of goods and services have advanced about 8 percent. The Committee is aware that life at poverty level is far below the standards to which the average American is accustomed. The Committee recognizes that assuring a standard of living above the poverty level is, at best, a modest goal.

Poverty level income, quite simply, is the maximum annual income a family of a given size can receive and still be considered economically disadvantaged. The amount of family or individual income is used to determine whether or not a person is poor.

Present poverty thresholds emanate from definitions developed by the Social Security Administration in 1964 and modified by the Federal Interagency Committee in 1969. The Social Security Administration utilized the "economy" food plan developed by the Department of Agriculture around 1964. Various food plans have been prepared by the Department of Agriculture for more than 40 years. The purpose of the food plans was to provide guides for estimating costs of needed food for families of varying sizes. As noted by Mollie Orshansky in her 1965 article on "Counting the Poor";

"The plans represent a translation of the criteria of nutritional adequacy set forth by the National Research Council into quantities and types of food compatible with the preference of U.S. families, as revealed in food consumption studies. Plans are developed at varying levels of cost to suit the needs of families with different amounts to spend.

An economy food plan was developed in 1964 which cost 74 percent to 80 percent of the "low cost" food plan. The "low cost" plan had served as the basis for determination by welfare agencies of eligibility for food allotments for a number of years. The economy plan was recommended for *"temporary or emergency use when funds are low" only.*

The next step in determining poverty levels involved translating food costs into total income requirements. Statistics indicate that the proportion of income allocated to necessities and in particular, food, is a viable indicator of economic well-being. The greater the proportion of income spent on food, the more likely the person purchasing was financially hard pressed. As a result of an Agricultural Department evaluation of family food consumption and dietary adequacy in 1955, a relationship was established between the minimum cost of food and the total income (post taxes) needed by an individual, couple, or family. The 1955 evaluation revealed that the average expenditure for families of two or more was approximately one-third of post tax income. Thus, the basis for defining poverty was developed.

In 1965, it was estimated that an average family of 4 would have to live on a budget of 70 cents a meal per person for food. The present poverty level of $2,590 for a single person, assuming that one-third of the person's income is spent on food, permits an expenditure of 79.9 cents per meal for a single individual. Again it should be emphasized that the poverty threshold used a diet recommended for *"temporary or emergency use"* as the basis of poverty determination.

From 1964 to 1969, the poverty threshold figures adopted in 1964 were adjusted to reflect the changes in the cost of food included within the economy food packet. In 1969, the Interagency Committee suggested that, inasmuch as the pace of the cost of living was not adequately reflected by increases in the price of foods, a better adjustment gauge should be utilized. In its stead, the Consumer Price Index (CPI) was inserted. The following table compares CPI increases with food price increases. Note particularly that since the standard was changed in 1969 that in 2 of the 4 years charted, food prices had *greater* increases than the CPI including a dramatic difference in 1972–73. This variance in CPI and food prices has continued to date and causes the Committee to question the validity of a food-based poverty threshold.

TABLE 15.—AVERAGE ANNUAL PERCENT CHANGE IN THE COST OF THE ECONOMY FOOD PLAN AND IN THE CONSUMER PRICE INDEX (ALL ITEMS AND FOOD): 1959 TO 1973

Year	Economy food plan	Consumer Price Index	
		All items	Food
1959–60	2.2	1.6	1.0
1960–61	−2.2	1.0	1.3
1961–62	0	1.1	.9
1962–63	2.2	1.2	1.4
1963–64	0	1.3	1.3
1964–65	2.2	1.7	2.2
1965–66	4.2	2.9	5.0
1966–67	0	2.9	.9
1967–68	NA	4.2	3.6
1968–69	NA	5.4	5.1
1969–70	NA	5.9	5.5
1970–71	NA	4.3	3.0
1971–72	NA	3.3	4.3
1972–73	NA	6.2	14.5

NA—Comparable data not available.
Source: Economic Report of the President, February 1974, and U.S. Department of Agriculture.

Each year new guidelines are established which determine those who are "economically disadvantaged". The figures released in April 1975 for use for the next year are shown by the following table:

TABLE 16.—ECONOMICALLY DISADVANTAGED—CONTINENTAL U.S.

Family size	Apr. 30, 1975, United States		May 1974, United States	
	Nonfarm	Farm	Nonfarm	Farm
1	$2,590	$2,200	$2,330	$1,980
2	3,410	2,900	3,070	2,610
3	4,230	3,600	3,810	3,240
4	5,050	4,300	4,550	3,870
5	5,870	5,000	5,290	4,500
6	6,690	5,700	6,030	5,130

It should be remembered that the low-income concept was developed to identify in dollar terms, a minimum level of income adequacy for families of different types in keeping with American consumption patterns. Insofar as individual circumstances vary, the needs do also. Note in the above chart that the money income required by an individual family to eat within the nutritional standards imposed by the "economy" food plan is classified by family number only. Thus, an individual with disabilities would, in all likelihood, be more "needy" as a function of the costs normally attributed to disability. Additionally, inasmuch as the poverty threshold is determined as a function of food budget outlays designed by the Agricultural Department, substantive evaluation should be considered. For instance, the U.S. Department of Agriculture in *Family Food Plans and Food Costs* noted that:

All the plans, if strictly followed, can provide an acceptable and adequate diet, but generally speaking—the lower the level of cost, the more restricted the kinds and qualities of food must be and the more the skill in marketing and food preparation that is required.

Therefore, when involved with the disabled and elderly, such as those who are recipients of veterans' pension, one must be aware of the poverty threshold limitations.

The result of a low income diet is predictable. Mollie Orshansky in her article alluded to *supra* wrote:

There is some evidence that families with very low income, particularly large families, cut their food bills below the economy plan level—a level at which a nutritionally good diet, though possible, is hard to achieve. *Indeed, a study of beneficiaries of old-age, survivors, and disability insurance—limited to 1- or 2-person families—found that only about 10 percent of those spending less than the low-cost plan (priced about a third higher than the economy plan) had meals furnishing the full recommended amounts of essential nutrients.* Not more than 40 percent had even as much as two-thirds the amounts recommended. Only when food expenditures were as high as those in the low-cost plan, or better, did 90 percent of the diets include two-thirds of the recommended allowance of the nutrients, and 60 percent meet them in full. Few housewives with greater resources—incomes and other—than most poor families have at their disposal could do better. Many might not do as well. (emphasis ours)

Accepting the poverty level with its drawbacks has, at least, enabled determination of what income is 'too little". Matching one's income against the poverty guidelines for that individual's particular situation enables categorization of economically disadvantaged or poor. Programs, especially need-based programs, can then be devised that will benefit recipients identifiable by the cognizable standards. In this manner, programs can be examined to determine whether qualification for benefits did, in fact, enable a recipient to assume a standard of living sufficient to supply the bare necessities.

Thus the poverty threshold is a minimum administrative standard. Premised upon the cost of food and the relationship of food to overall cost of living, it should be no more than lowest tolerated level. Thus the Committee believes that the reported bill's intent of enabling each pensioner to have an income above the poverty level is a considerably modest one. To assure a standard of living above the poverty level is a small step toward assuring that veterans and their dependents can live their lives out in dignity.

Scheduled Pension Reductions on January 1, 1976

With problems of this magnitude continuing to affect large numbers of veterans and widows, and an existing pension program which is incapable of responding to their needs, the necessity of promptly developing a new pension system should be evident to all.

This urgency is compounded further by a prospective pension reduction facing a majority of our veterans and widows.

Most pensioners are elderly—and the most common source of income available to them is social security. The average social security payment now received by veteran pensioners is reported as $187 monthly. The figure for widows was placed at $157 monthly. The following table shows the number of non-service-connected pensioners receiving OASI benefits broken down by age grouping and average benefit:

TABLE 17.—NON-SERVICE-CONNECTED PENSIONERS WITH OLD AGE SURVIVORS INSURANCE

Veterans	Number with OASI [1]	Total caseload	Present with OASI [1]	Average OASI [1]
Less than 65	275,700	448,800	61.4	$2,447
65 to 69	106,300	113,100	94.0	2,103
70 to 74	54,600	58,600	93.1	2,012
75 to 79	181,600	200,700	95.5	2,191
80 and over	165,600	196,700	84.2	2,061
Total veterans	783,800	1,017,900	77.0	2,229
Survivors	945,700	1,250,990	75.6	1,883

[1] Source: 1 percent sample of AIQ's; March 1975.

Note: No age breakout is available for survivors.

Solely because of the 8 percent cost-of-living increases in social security benefits this year, on January 1, 1976, 1,327,176 veterans and widows, or approximately 53.1 percent of all pensioners, are scheduled to sustain annual pension reductions averaging $98. Another 41,845 veterans and widows will be dropped from the pension rolls altogether. The number reduced or terminated by category and the average annual reduction in pension is shown in the following table:

TABLE 18.—ESTIMATED EFFECTS OF 8 PERCENT OASI INCREASE AS OF JAN. 1, 1976 (NEW LAW ONLY)

	Number reduced pension	Average annual reduction	Number termination
With no change in law:			
Veteran alone	225,567	$117	6,602
Veteran with dependent	467,339	123	17,805
Widow alone	526,391	79	16,748
Widow with dependent	107,879	44	690
Total	1,327,176	98	41,845

Note: Data supplied by Veterans' Administration.

In addition, it is estimated that if there is no change in annual income limitations, another 12,000 pensioners under the old law provision program will be ineligible for that program.

As thousands upon thousands of letters addressed to Congress each year reveal, veterans and widows have difficulty understanding the logic of Government programs which appear to give with the one hand and take away with the other. Of course, any need-based income maintenance program can properly take into account the amount of other annual income available to a veteran or his survivor. But if a significant portion of those pension recipients *remain below the poverty level* and if they are unable to live out their lives in dignity, then giving with one hand and taking away with the other as to those veterans and widows, is not only illogical but it is also inherently self-defeating as well. The Committee believes veterans and widows should receive the full measure of increases which reflect changes in the Consumer Price Index.

DEVELOPMENT OF THE VETERANS AND SURVIVORS PENSION REFORM ACT

General objectives

Given the foregoing, what principles should govern the development of a new pension system? At its core, the Committee is convinced an income maintenance program taking a significant share of available tax resources should be need-based. This has been a principle which, if not always honored in practice, has been the keystone of pension programs for a considerable period of time. When H.R. 7650—ultimately enacted as Public Law 86-211—the basis for our current law pension program, was reported by the House Committee on Veterans' Affairs in 1959, they noted:

The committee in reporting this legislation declares that the program of non-service-connected pension for World War I, World War II, and the Korean conflict is designed basically to furnish financial assistance when needed to non-service-connected disabled veterans who have served their country honorably in time of war, and because of non-service-connected disability are unable to follow a substantially gainful occupation; further that the assistance should be measured according to need.

It will thus be noted that the provision of disability and need has been paramount in the history of pension legislation and that, while it is true that pension has been paid on the basis of age or service alone, the predominant pattern has been the requirement of a showing of need and/or disability.

The Committee believes that an adequate, equitable, need-based pension reform program, thus, should be one which:

First, assures a level of income above a minimum subsistence level allowing veterans and their survivors to live out their lives in dignity;

Second, provides veterans and widows from ever having to turn to welfare assistance;

Third, treats similarly circumstanced pensioners equally;

Fourth, provides the greatest pension for those with the greatest needs; and

Fifth, guarantees regular increases in pension which fully account for the increases in the cost of living.

Clearly the present pension program does not fully meet these objectives. In sum, the maximum payment of $1,920 a year for a veteran without dependents—or $1,296 for a similarly circumstanced widow—does not guarantee a minimum subsistence level that allows veterans or survivors to live out their lives in dignity. And with nearly half of our pensioners with incomes below the poverty level and one-third unable to buy enough food, the present system does not insure that veterans and widows will not have to turn to welfare assistance.

Different payments for veterans and widows and a variety of income exclusions means that we are not treating similarly circumstanced pensioners equally. Nor do such payments, in conjunction with the distorted rate system, always provide the greatest pension for those with the greatest needs. Finally, there is no mechanism in the current program which provides for regular increases which take into account changes in the cost of living.

Alternative Proposals Considered

Apart from the report bill, there have been two other basic pension proposals advanced in Congress in recent years, which the Committee believes should be examined briefly. The first set of proposals are generally aimed at older veterans and with minor variations would authorize a minimum pension payment of $135 a month for all veterans of World War I—$150 with a dependent. The need of our older veterans of World War I have been and continue to be a priority concern for the Committee. But these measures would not meet the objectives of an equitable pension program previously outlined. These proposals would completely eliminate the need-concept for all such veterans and survivors and direct the payment of pension to all regardless of their income or need. For example, several current Members of the Senate and House of Representatives would receive a veterans pension if this measure were enacted. Similarly circumstanced veterans and survivors would not receive the same amount of pension. Equally important, such a proposal which the Veterans' Administration estimates would result in new minimum mandatory expenditures in excess of $2 billion during the first year alone, would distribute benefits in an inverse ratio to need. That is, the entire $2 billion would be distributed to veterans at the upper end of the income scale while not the first dollar in additional benefits would be paid to any veteran or survivor currently below the poverty level.

In this connection, it should be noted that this proposal was explicitly considered at the most recent national convention of The American Legion (whose membership includes 770,000 veterans of World War I) and this year, as in the past, it was rejected by the delegates. In a letter dated July 31, 1975, they noted:

For the past several years, resolutions have been considered by our national conventions to either remove the needs test in veterans pension considerations or to excuse certain types of income from counting against the annual limitations. On each occasion, these proposals have been rejected by a large majority of the delegates in the belief the first consideration would ultimately destroy the program and the second would be discriminatory.

A second basic set of proposals are those which generally provide that in determining annual income for pension purposes the Administrator shall disregard or not count any increases provided under the Social Security Act. While the motivations for such legislation are readily understandable, in the final analysis, such bills are neither desirable nor workable. First, any measure which would not count increases in social security income but would count other income increases, would be inequitable. The need-based origin of the pension program counts all retirement income. Thus, to exclude increases in social security while counting increases in say railroad retirement, private pension, or Federal pension would create a favored class of pensioners. Similarly circumstanced veterans would not be treated alike; veterans with identical amounts of outside incomes but from different sources would receive different pensions, which, in turn, would cause considerable dissension. Second, a social security "disregard" or "pass along" would also have the unintended effect of giving larger percentage Federal income increases to those in the higher income brackets, than to those in the lower income brackets, which, again, would not meet Federal policy objectives and would run counter to longstanding congressional intent for a need-based pension program.

Nor would such a system even be workable. The Veterans' Administration has repeatedly informed Congress that a so-called pass along of social security increases creates imaginable, and could result in the complete breakdown of the veterans' pension system. The Committee is all too aware that the Government often has problems administering certain programs where it believes itself capable. Accordingly the Committee believes that Congress should be prepared to give the full benefit of the doubt in those cases where the executive branch admits it cannot. In this connection the Veterans' Administration has previously supplied a memorandum to the Committee outlining in greater detail the problems that the proposal would engender.

That memorandum is as follows:

Effect of the social security "pass through" turns a simple system into a high'y complex one

Pension is paid based upon countable income, self-reporting through annual income questionnaires, and therefore kept simple.

Pensioners receive income from various sources, and most have income from more than one source. When income from any one or combination of sources undergoes change, an adjustment in rates is made.

For social security and other retirement incomes, 10 percent is excluded in determining the pension rate payable.

The "pass thru" proposal would create an administrative monstrosity.

For those on the pension rolls who are receiving social security, the social security portion of their income would be of three components the "pass thru" amount which is never to be counted as income; the balance of which 10 percent is not counted, and 90 percent which is counted.

By law social security will be adjusted each year in time with changes in the cost of living. The percentage will be applied to the total social security payable. Where there is a portion not to be counted, that amount, and the new increase would be excluded. The individual is not usually certain of the amount of his benefit increase (with medicare, etc., deductions) nor can we be sure of the amount which will be the total increase "pass thru." Automatic adjustments will not be feasible for all of these cases, for individual treatment and adjudication would mean incurring tremendous administrative costs.

The problem would also be compounded when income other than social security changes and an adjustment must be made. The various components of social security must be unraveled to properly assign the pension rate.

There would be further problems should a pensioner be taken off the rolls for a period of time due to employment or other change in income, and then again become eligible. Another complex income determination would have to be made for each case.

The "pass thru" would also create disparate classes of pensioners. For all future payments, we would have to distinguish between those receiving pension before January 1, 1974 and receiving social security and those entitled on or after January 1, 1974, as well as those who have received pension before January 1, 1974 but did not commence receipt of social security until after that date.

Given the foregoing the Committee believes the reported bill is preferable to either of the alternatives just examined.

Principal features of the pension program

The Veterans and Survivors Pension Reform Act, as reported, attempts to meet the objectives of an equitable need-based pension program by establishing a "one variable system." Additional detailed discussion can be found in the SECTION-BY-SECTION ANALYSIS, *infra*.

The current pension program is a "two variable" system with an annual income limitation and a sliding scale or rates, either or both of which can be altered. Under a one-variable system, a basic level of income support is established, and the amount of pension payable is determined by calculating the difference between the annual income available to the veteran or widow and the minimum income floor established by Congress. The basic minimum level would be $2,700 for a single pensioner, and $3,900 for a couple, which assures all pensioners an income above the current official poverty level established by the Bureau of Labor Statistics—BLS. The following table compares the BLS poverty level, the maximum payment under current pension law and that under the restructured program:

TABLE 19.—PENSION COMPARISON

	Single	Couple
Poverty level	$2,590	$3,410
Current pension, veteran	1,920	2,064
Pension Reform Act	2,700	3,900

For the first time, all eligible veterans and survivors will be assured of a level of assistance that places them above the official poverty level and national welfare standards.

Utilizing this basic structure, the Veterans' Administration will then pay all eligibile veterans and survivors pension on an annual basis—in monthly installments—such an amount to insure that the pensioner achieves the minimum level of support established by Congress. If a veteran without dependents, for example, has no income, the Veterans' Administration will pay him $2,700 a year. If he has some non-pension income he will receive in veterans pension the difference between income available and the congressionally-mandated level of support.

There are numerous advantages to the one-variable system. First, the setting of minimum standards of need assures that the system provides an adequate income for veterans or widows with no outside income. Such a system will, as a result, channel more funds to the poorest recipients. Second, the system will not be incompatible with the supplemental security income program and therefore it can be assured that the veterans will receive enough benefits to prevent them from having to turn to welfare. Third, the new program will be more responsive to changes in income and the pension paid will fill the entire gap between the standard of minimum need and all other annual income available to the beneficiary. In addition, as to those beneficiaries in coming years, where outside income increases to the level where they will be unable to qualify for pension, they will be eased from the system at a more gradual rate than at present. Finally, a one-variable system is simply the most basic and uncomplicated approach to income maintenance.

Generally, with limited exceptions, no distinction is made as to the source of non-pension income and all such available income will be calculated in determining the amount of pension the veteran will receive under the need-based income maintenance program. Thus, in order to align pension payments more closely to a pensioner's available resources and, hence, to actual need, the vast majority of the 18 income exclusions contained in the current pension law are eliminated. Certain exclusions with respect to unusual situations which do not conflict with the basic principles of pension program are continued. For the most part these exclusions were recommended by the Veterans' Administration in draft proposals previously submitted to the Committee. They were directed toward those funds expended which are irretrievable—for example, unusual unreimbursed medical expenses; bureau expenses—or funds which represent one-time payments for loss—for example, fire insurance proceeds. As the Veterans' Administration noted in testimony in 1973 in support of such exclusions:

These are some items which are offsets, those in which the pensioner acts as a conduit of those funds for a specific purpose, such as in receiving the proceeds of a fire insurance policy, which is then used to replace the property loss.

To maintain the integrity of the VA pension program vis-a-vis the supplemental security income program which also excludes a like amount, $780 of annual earned income would be disregarded as recommended by the Veterans' Administration in their July 1973 proposal. Only 3.9 percent of those veterans in receipt of pension have any earned income at all.

Spouse's Income

As a starting principle, there is general agreement that available income of the spouse reasonably available for the maintenance of a veteran, should be included in determining pension eligibility. The exclusion of all of the spouse's earned income under the present program and the partial exclusions of unearned income—$1,200 annually—have been responsible according to the Veterans' Administration, for some of the most serious inequities and anomalies of the current pension program. As has been previously noted the Veterans' Administration testified critically about certain veterans receiving pensions even though their wives had earned in excess of $20,000 annually. Though the legislative history of this provision fails to reveal the reasons why the exclusion was added, it generally has been presumed—in part because most elderly pensioners do not have earned income of any consequence—that the exclusion was designed to aid the young veterans seriously disabled from non-service-connected causes by providing a work incentive for his wife. There are, for example, 7,800 Vietnam era veterans in receipt of pension, many of whom are paralyzed or have sustained other catastrophic disabling injuries from non-service-connected accidents. Several alternatives have been considered in dealing with this difficult problem. Previously submitted VA draft proposals provided that all income of the spouse shall be considered as the income of the veteran. However, that could be unfair in some circumstances and be a work disincentive. As such it has been of particular concern to such veterans organizations as Paralyzed Veterans of America, who testified before our Committee that to include all of the spouse's income would cause undue hardship for their members.

In 1973, the House of Representatives unanimously passed provisions in H.R. 9474 which would have placed an annual limitation of $3,600 upon a spouse's earned income, which Chairman Teague termed a "reasonable and realistic modification". The American Legion mandates approved at their annual convention would limit such earnings to $7,200 a year.

After deliberation the Committee has provided in the bill that the spouse of a veteran who is in receipt of aid and attendance or is permanently housebound may disregard up

to one-half of the spouse's earned income. The Committee recognizes that this whole area presents very difficult questions in attempting to balance various policy considerations The Committee has attempted to take cognizance of the particular problems of those the Paralyzed Veterans of America termed "19,000 non-service-connected catastrophically disabled veterans" who deserve "special consideration". Accordingly the Committee has permitted this modest work incentive for the working spouses of such catastrophically disabled veterans. By excluding one-half of earned income, this means that a spouse of a seriously disabled non-service-connected disabled veteran could earn up to a maximum of $11,671 and the veteran would qualify for at least $1 of pension. The Committee will continue to examine this problem closely as well as medical and other costs associated with the seriously disabled veterans condition to assure both that equity is done and that the basic principles of the pension program are maintained.

Pensions For Surviving Spouses

An important provision of the restructured pension program is that widows will receive the same amount of pension as that of similarly-circumstanced veterans. Under the current pension system such widows receive pension at a rate which is only two-thirds that payable to a veteran. Thus, under the current pension system a maximum pension, a widow without dependents may receive is $1,296 which is nearly $1,300 below the official poverty level of $2,590. Under the reported bill, a widow would be entitled to $2,700, an increase of $1,404 over her present annual pension

The rationale for paying widows only two-thirds of that paid a veteran has never been entirely clear; the Committee believes that perhaps it is based upon a presumption that a spouse is once removed from the veteran who survived and hence should not share in the same benefits as provided the veteran. Perhaps it is based in part upon the fact that veterans under the age of 65 must, in fact, be disabled as well as needed in order to receive benefits. Veterans over the age of 65 are, of course "presumed" disabled so that need is the only test applicable. In this connection it should be noted that fully 64.5 percent of all widows in receipt of pension are over the age of 65 as shown in the following table:

TABLE 20.—*Ages of pension widows*

Age:	*Numbers*
Under 20	100
20 to 24	1,575
25 to 29	4,414
30 to 34	4,565
35 to 39	11,528
40 to 44	26,269
45 to 49	53,981
50 to 54	80,822
55 to 59	82,538
60 to 64	77,764
65 to 69	92,946
70 to 74	167,817
75 to 79	213,758
80 to 84	106,112
85 to 89	32,935
90 to 94	9,022
95 and over	2,454

Upon a careful examination the Committee believes that the "once removed" rationale is based upon a false premise. The veterans who risked their lives during World War I or World War II or any other conflict were not doing so for selfish gain. The veteran was fighting for his country; to protect his family and our way of life. Veterans have been and remain greatly concerned that there be adequate support for their widows after their death. More fundamentally, such distinctions in the amount of pension payments make no sense in a need-based program. Supermarkets do not charge widows two-thirds of what they charge veterans for a loaf of bread. There is, of course, true equality for widows when it comes to cost of food and medical care and housing. Inequality then, only exists as to the amount of pension entitlements. This disparity, the Committee believes, accounts for the survey results of the Study of Older Veterans and Widows conducted by the Veterans' Administration this year, which revealed greater problems for widows than for veterans in almost every category examined.

Equalization of survivor benefits was recommended by the Senate in 1959, but was not enacted into law. In this connection, it is important to note that social security survivor benefits were equalized in 1972 despite the surviving spouse's status as "once removed" from the wage earner. That act increased widows rates from 82.5 percent of the veterans retirement benefit to 100 percent of the worker-husband retirement benefit. The Committee report to the measure found not surprisingly that ". . . the expenses of a widow living alone are no less than those for a single retired worker." The same committee observed that " no reason for paying aging widows less than the amount which would be paid to their husbands as retirement benefits could be found". The Committee on Veterans' Affairs believes the same observation is true for surviving spouses of veterans who have died from non-service-connected disabilities.

The 1968 report of the U.S. Veterans Advisory Commission on the Veterans' Benefits System stated that "from the beginning it (the pension) has been intended (to) be offered and received in dignity". Despite this intent, the current pension system entitles surviving spouses to maximum pension of $1,296 a year; a rate of only two-thirds that of a veteran's rate and substantially below the poverty level. As pointed out by the Veterans of World War I in testimony before the Compensation and Pensions Subcommittee, it make no sense to grant surviving spouses less than equality with veterans since "(it) costs them the same to get an apartment and to eat." Equalization is also strongly supported by the American Legion and Veterans of Foreign Wars.

The Bradley Commission on Veterans Pensions and Veterans Benefits in 1956 recommended that "income standards for payment of pension benefits to survivors should be governed by the same . . . formula recommended . . . (for) veterans". The Veterans' Administration in testimony before the Veterans' Affairs Committee in June 1973 designated the present two-thirds relationship between veterans and surviving spouses as "inequitable". They further indicated that the artificial distinction resulted in "two classes of beneficiaries in like circumstances and with the same needs for assistance . . . (being) treated quite differently". Such a result is, of course, in conflict with the concept of a need-based system.

The attitude of veterans' widows is perhaps best summed up by Anna Fuhrer, National President of the Widows of World War I, Inc. She said:

"I am enclosing a copy of Pension to Veterans and Widows of WWI as granted under Public Law 93-527. I have two questions about this list; first what makes the Members of the Congress think that a widow can get along on less than a veteran with the same amount of income, exclusive of pension? Second, if a widow whose income is $2,900 a year, exclusive of income, is entitled to the same amount of pension as a veteran with that amount of income, why is not the widow with income of less than $300 entitled to the same consideration? To me this is grossly unfair. It is discrimination, not only against women, but what is worse, discrimination against the 'have nots.' "

Perhaps the most persuasive argument for equalizing rates is revealed by examining the economic situation facing widows in receipt of pensions. For example, using poverty guidelines, the $1,296 maximum pension entitlement allows the equivalent of 40 cents a meal, a total far below minimum U.S. nutritional standards. It is not surprising that 37 percent of the widows surveyed by the Veterans' Administration this year reported they were unable to afford all the food they needed. Over 100,000 surviving spouse's or 15.36 percent of all pension widows reported that they had no other countable income. For these recipients, the $1,296 veteran pension entitlement represents their entire income; a total which leaves these pensioners far below the poverty level, abandoned to a life euphemistically depicted as "disadvantaged". Probably the current system's failure is epitomized best by the economic plight of widows receiving pensions in relation to minimum societal standards. Fully 48.52 percent of all widows in receipt of pension had a total income (including their pension) which placed them below the poverty level in comparison to only 11.3 percent for all females generally.

The Committee believes the foregoing facts provide ample support for the proposition that similarly-circumstanced pensioners should receive the same amount of pension. Any pension system expressly intended to allow its recipients to live out their lives in dignity cannot create inequities, anomalies, and inconsistencies. A true need-based system treats similarly-circumstanced pensioners similarly, be the recipient a veteran or the veteran's surviving spouse.

Of course, in developing a pension system Congress could have decided not to pay benefits at all to surviving spouses of veterans. But having made such a decision the Committee believes that in a need-based program the benefits should be the same. For this reason the reported bill meets no distinction between the veteran and the surviving spouse when determining entitlement.

Finally, it should be noted that the Committee has for some time been examining the amount of survivor benefits paid to widows whose husbands had died of service-connected causes under the Dependency and Indemnity Compensation (DIC) program. It is the Committee's intent in the near future to reexamine the entire system of survivor benefits for service-connected widows to insure the system is structured correctly and these survivors are receiving an adequate level of compensation.

AID AND ATTENDANCE ALLOWANCE

Under current law, certain pensioners are entitled to receive, in addition to their pension, an annual aid and attendance allowance of $1,476 ($123 per month). A veteran is considered in need of regular aid and attendance if he is a patient in a nursing home or is bedridden or is nearly helpless or blind as to need or require the regular aid and attendance of another person. Under current law, a particular problem often develops when a veteran accrues enough income in a particular year to lose the last dollar of regular pension. In this situation, he also loses the entire $1,476 in aid and attendance allowance in a lump sum as a result, which is a significant reduction in income. The Blinded Veterans Association among others, has expressed great concern about this loss of aid and attendance allowances.

Under the restructured pension system, however, this will not occur. The aid and

attendance allowance which has been increased by an 8-percent cost of living to $1,596 ($133 per month) under the bill, will simply be added to the basic level of support to establish higher support levels which reflect the aid and attendance allowance. For example, the Veterans' Administration will assure a level of support for a veteran without dependents who is in need of aid and attendance of $4,296 ($2,700 plus $1,596) subject to reduction by the pensioner's annual income. Thus under the restructured pension program, the veterans' aid and attendance allowance would be gradually "dollared down" as non-pension income increases; not lost in a lump sum as under current law. In testimony before the Compensation and Pensions Subcommittee, the Paralyzed Veterans of America termed this a "welcomed reform initiative". A similar procedure is provided in the bill for those who qualify for housebound allowances. Under current law, a veteran is considered "permanently housebound" when he is substantially confined to his house or immediate premises due to a disability which it is reasonably certain he will sustain throughout his lifetime. Currently, veterans eligible for housebound allowances annually receive an additional $588 ($49 per month). Under the restructured bill this amount has been increased to $636 ($53 per month), to reflect an 8-percent cost-of-living increase. Then, to use the example of a veteran without dependents who is "housebound", the minimum annual level of support which the Veterans' Administration will assure would be $3,336 ($2,700 plus $636). Currently, 126,294 veterans and 55,737 widows received aid and attendance allowances. Another 25,968 veterans are considered "housebound".

COST-OF-LIVING ADJUSTMENTS

Another important feature of the pension program introduced today is the provision for regular adjustment in the basic level of support established under this bill. This provision, which has occasioned much thought and discussion, provides that whenever social security benefits are increased automatically as a result of changes in the Consumer Price Index, the annual rate of pension will also be increased by a like percentage. Enactment thus will eliminate the "push-pull" effect that characterizes the present system when social security benefits are increased. Further, the possibility that inflation will rob pensioners of benefits which are irretrievably lost, even though the law is subsequently amended to adjust the rate, is eliminated. And it is clear that veterans and widows living on fixed incomes are those who are hurt the most by inflation.

The Veterans' Administration has informed us that under the new pension program, no veteran or survivor will suffer any pension support reduction solely because of cost-of-living increases in social security benefits. This corrective feature of our bill should eliminate much of the criticism of the existing program and insure that all veterans and survivors receive the full measure of the cost-of-living increases.

The interrelationship of the new pension system with social security benefits is, perhaps, best explained by the following example. Assume a veteran is receiving social security benefits at an annual rate of $2,000. Under the reform proposal insuring him an income level of $2,700, he would be entitled to $700 in veterans pension. Assume further that in July of a given year the Consumer Price Index indicates a 10 percent increase in the cost of living. This, in turn, would trigger an automatic 10 percent increase in social security benefits bringing the income from that source to $2,200. This additional income, of course, would not be counted with respect to pension until January 1 of the following year; the annual date for determining of income. But on January 1 instead of having his pension benefits reduced, the basic level of support would also be increased by 10 percent or $2,700 to $2,970. As a consequence, he would continue to receive the full measure of the $200 increase in social security benefits without any decrease in his pension income, and in this case, would also receive an additional $70 in pension support. Thus, a pensioner is assured of receiving the full measure of changes in the cost of living, which are measured against the basic minimum level of support established under this bill.

Congress, of course, will retain the primary role of determining whether benefit levels are adequate. The Older Americans Act of 1965 declares a national policy of insuring that our elderly have an "adequate income in retirement, in accordance with our American standard of living." Certainly we can expect no less for our veterans who risked their lives in defense of that standard. Thus, it is expected that Congress will periodically review the standards of support established by this act and will make necessary appropriate changes when warranted and feasible within the context of existing budgetary resources. The cost-of-living provisions in this measure simply assure that in the absence of statutory amendments, the real value of the benefits established by this bill will not be seriously eroded by rising prices.

Similar automatic cost-of-living provisions are authorized for those veterans and survivors currently receiving or eligible for pensioners who elect to remain under the existing pension system. For both programs the provisions for regular cost-of-living adjustments in the benefit levels were recommended by the Veterans' Administration in draft proposals they submitted in 1973 and 1974 and are supported by various veterans' groups.

DEPENDENCY AND INDEMNITY COMPENSATION FOR PARENTS

Dependency and indemnity compensation (DIC) is paid to needy parents of those veterans who have died from a service-connected cause. Under the current system DIC for parents is determined by utilizing a formula system similar to the formula system for veterans and widows. Accordingly, a new DIC program is authorized for dependent parents similar to that created for veterans and survivors under this act. There are approximately 71,000 parents in receipt of such allowances. A breakdown of their annual income is shown in the following tables:

TABLE 21.—DEPENDENCY AND INDEMNITY COMPENSATION, PARENTS ONLY—SOLE SURVIVING PARENTS, APR. 20, 1975 (ALL CASES)

Annual income not over	Father unremarried or remarried not living with spouse		Mother unremarried or remarried not living with spouse		Father not living with spouse or remarried but not living with spouse		Mother not living with spouse or remarried but not living with spouse	
	Number	Percent of total	Number	Percent of total	Number	Percent of total	Number	Percent of total
$								
$100	634	22.4	6,224	23.7	342	28.1	1,986	44.7
$200	19	.7	164	.6	7	.6	29	.7
$300	14	.5	165	.6	4	.3	30	.7
$400	24	.9	180	.7	12	1.0	51	1.2
$500	14	.5	173	.7	7	.6	79	1.8
$600	17	.6	195	.7	6	.5	79	1.8
$700	165	5.8	1,544	5.9	18	1.5	90	2.0
$800	27	1.0	389	1.5	11	.9	116	2.6
$900	50	1.7	510	1.9	38	3.1	204	4.6
$1,000	177	6.2	1,307	5.0	62	5.1	212	4.8
$1,100	409	14.4	3,059	11.6	85	7.0	228	5.1
$1,200	104	3.7	1,063	4.0	47	3.9	118	2.7
$1,300	110	3.9	1,020	3.9	48	3.9	146	3.3
$1,400	122	4.3	1,101	4.2	32	2.6	135	3.0
$1,500	114	4.0	1,103	4.2	60	4.9	108	2.4
$1,600	105	3.7	1,019	3.9	42	3.5	124	2.8
$1,700	93	3.3	925	3.5	51	4.2	82	1.9
$1,800	69	2.4	766	2.9	43	3.5	79	1.8
$1,900	87	3.1	794	3.0	45	3.7	81	1.8
$2,000	61	2.2	723	2.8	32	2.6	76	1.7
$2,100	75	2.6	699	2.7	35	2.9	82	1.9
$2,200	61	2.2	614	2.3	24	2.0	61	1.4
$2,300	67	2.4	543	2.1	36	3.0	43	1.0
$2,400	57	2.0	553	2.1	31	2.6	36	.8
$2,500	42	1.5	373	1.4	32	2.6	44	1.0
$2,600	49	1.7	438	1.7	24	2.0	25	.6
$2,700	33	1.2	266	1.0	20	1.6	39	.9
$2,800	14	.5	200	.8	10	.8	22	.5
$2,900	15	.5	108	.4	6	.5	13	.3
$3,000	6	.2	49	.2	2	.2	8	.2
Total	2,836	100.0	26,291	100.0	1,217	100.0	4,440	100.0

TABLE 22.—DEPENDENCY AND INDEMNITY COMPENSATION, PARENTS ONLY—2 PARENTS, APR. 20, 1975 (ALL CASES)

Annual income not over	Father living with spouse or remarried and living with spouse		Mother living with spouse or remarried and living with spouse		Surviving father remarried and living with spouse		Surviving mother remarried and living with spouse	
	Number	Percent of total	Number	Percent of total	Number	Percent of total	Number	Percent of total
$100	1,147	14.1	1,229	15.0	43	9.4	72	10.2
$200	33	.4	37	.5	1	.2	1	.1
$300	41	.5	44	.5	1	.2	4	.6
$400	37	.5	36	.4	2	.4	2	.3
$500	49	.6	45	.6	1	.2	6	.9
$600	50	.6	53	.7	2	.4	6	.9
$700	91	1.1	99	1.2	5	1.1	9	1.3
$800	55	.7	63	.8	3	.7	1	.1
$900	127	1.6	121	1.5	7	1.5	7	1.0
$1,000	145	1.8	148	1.8	17	3.7	13	1.9
$1,100	203	2.5	208	2.6	20	4.4	20	2.8
$1,200	111	1.4	110	1.4	14	3.1	12	1.7
$1,300	189	2.3	182	2.2	12	2.6	6	.9
$1,400	279	3.4	281	3.4	10	2.2	24	3.4
$1,500	324	4.0	308	3.8	18	3.9	21	3.0
$1,600	324	4.0	318	3.9	18	3.9	16	2.3
$1,700	254	3.1	244	3.0	7	1.5	19	2.7
$1,800	229	2.8	228	2.8	12	2.6	18	2.6
$1,900	275	3.4	273	3.3	15	3.3	23	3.3
$2,000	271	3.3	259	3.2	19	4.2	23	3.3
$2,100	326	4.0	310	3.8	23	5.0	21	3.0
$2,200	245	3.0	242	3.0	15	3.3	14	2.0
$2,300	232	2.9	227	2.8	10	2.2	14	2.0
$2,400	223	2.7	219	2.7	16	3.5	24	3.4
$2,500	262	3.2	254	3.1	15	3.3	20	3.7
$2,600	230	2.8	242	3.0	11	2.4	28	4.0
$2,700	231	2.8	228	2.8	14	3.1	23	.3
$2,800	206	2.5	206	2.5	11	2.4	15	2.1
$2,900	194	2.4	189	2.3	7	1.5	22	3.1
$3,000	165	2.0	167	2.0	11	2.4	28	4.0
$3,100	179	2.2	187	2.3	13	2.3	22	3.1
$3,200	166	2.0	150	1.8	3	.7	17	2.4
$3,300	151	1.9	149	1.8	13	2.8	18	2.6
$3,400	175	2.2	172	2.1	10	2.2	19	2.7
$3,500	146	1.8	163	2.0	5	1.1	22	3.1
$3,600	148	1.8	161	2.0	11	2.4	17	2.4
$3,700	141	1.7	141	1.7	10	2.2	15	2.1
$3,800	134	1.7	132	1.6	8	1.8	19	2.7
$3,900 to $4,200	345	4.2	344	4.2	25	5.5	37	5.3
Total	8,133	100.0	8,169	100.0	458	100.0	704	100.0

The current maximum payment for parents in receipt of DIC is $1,476 a year. Under the reform system a single parent without dependents would be entitled to a maximum yearly payment of $2,700, thus assuring that DIC recipients will maintain a standard of living above the poverty level. As with the current pension program, parents currently in receipt of DIC may elect not to switch to the new system but instead remain under the current program.

DEPENDENT CHILDREN

Heretofore children of qualified veterans have not been an integral part of the pension framework. Children are currently eligible for a maximum of $49 a month whenever there is no surviving spouse entitled to receive pension. Any surviving spouse entitled to receive at least a dollar of pension cannot be paid at a rate less than the amount a child would be eligible to receive. This limitation on reduction of widow's pension rates results in similarly-situated individuals receiving various amounts of pension.

The Veterans and Survivors Pension Reform Act recognizes the family as the primary social unit and integrates children into the pension program accordingly. For example, a mother who had a dependent in her custody would be entitled to a maximum pension of $3,900—the same amount to which a veteran and a spouse are entitled. A surviving spouse with two dependents in her custody would be entitled to a maximum pension of $3,900 plus $360 for each additional dependent in the surviving spouse's custody in excess of one—a total entitlement in this instance of $4,260. For both the veteran and the surviving spouse the entitlement for a family of three would be $4,260 reduced by the amount of the family unit's annual income.

A surviving child, except for those in the custody of a surviving spouse eligible to receive pension, would be entitled to a maximum of $1,200 annually. This entitlement is reduced by the child's annual income in the same manner that a veteran's or surviving spouse's entitlement is reduced. A second child would raise entitlement from the maximum $1,200 to a maximum of $1,560, an increase of $360, a method of additional entitlement comparable with current practice. The two children would each be entitled to one-half of the $1,560—$780 each. Each child would then have his entitlement reduced by the amount of his annual income, again in the same fashion that a veteran or surviving spouse's maximum income is reduced. Integrating the children into the "pension family" also results in inclusion of their income and estates in determining net worth and income needs. Under the bill, a veteran is to include in annual income any income received by a spouse which is reasonably available to or for the veteran. To assure assumption of a total family concept, any income of a child also would be considered that of the veteran if it is reasonably available to or for him. The same is true for a surviving spouse and any children in her custody.

Additionally, whenever the net worth of the veteran is being considered to evaluate whether part of his corpus should be consumed for his maintenance, the corpus of the estate of the children is also considered in the same manner as the corpus of the estate of the spouse is regarded. The same is true of the relationship between the surviving spouse and any children in her custody.

In this connection the Committee intends, however, that whenever the income or estate of the child is to be considered, due regard should be given to the accumulation of corpus for the future attainment of educational aspirations or such other goals as deemed worthy by the administrator.

Another provision of the reported bill enables the children of the Civil War, Indian War, and Spanish-American War to elect to receive pension under these new pension provisions. This small group of pensioners have not had an increase in pension since 1958. The only children eligible under these provisions are those children who, at the age of 18, had serious mental or physical deficiencies or afflictions and as such are in particular need for assistance.

NET WORTH LIMITATION

The Pension Reform Act contains additional provisions to be used by the Administrator when considering whether it is reasonable for veteran or survivor to consume the corpus of his estate for his maintenance. For example, the corpus and income of veteran's dependents are considered in evaluating corpus size in those instances when the veteran receives additional benefits because of those dependents.

Eligibility for the veterans' need-based-pension system is premised upon a demonstration of disability and need in both income and net worth. Failure to show need results in an eligibility for pension benefits. Of course, utilization of the single variable system permits dollar entitlement to vary according to differences in individual recipient's income status. Further, should a veteran or survivor have a net worth sufficient to cause the Administrator to rule that it is reasonable that part of the corpus be consumed for the veteran's maintenance, the veteran would be ineligible for pension benefits.

There have been some instances when pensions have been terminated or pensions denied when a recipient or claimant had an excess of corpus as shown in the following table:

TABLE 23.—TERMINATIONS BECAUSE OF EXCESS CORPUS OF ESTATE

	Disability	Death	Tota
Fiscal year:			
1962	495	294	789
1963	877	616	1,493
1964	781	986	1,767
1965	809	870	1,679
1966	790	934	1,724
1967	738	1,178	1,916
1968	557	854	1,411
1969	723	660	1,383
1970	503	873	1,376
1971	347	521	868
1972 (through September)	34	48	82
Total	6,654	7,834	14,488

Previous studies in 1966 revealed that the average net worth of those claimants who were denied pension because of excess corpus was $22,403 inclusive of all real and personal property except the claimant's dwelling place and personal effects suitable to the claimant's reasonable life style.

In general, however, studies have confirmed the generally modest financial condition of those veterans and survivors filing for non-service-connected pension. According to a 1967 VA study the average net worth of all survivors filing was only $2,509; the average net worth for all veterans filing was even more meager—$1,358. Further, only 26.9 percent of veterans and 39.9 percent of the survivors had any net worth at all and, of those with net worth, veteran claimants had an average of $3,110 and survivor claimants an average estate of $6,289.

It is readily evident that a need-based system must apply only to those veterans who are, in fact, in need. The average size of the estates of claimants was demonstrated in the VA study to be of such small equity as to indicate that the veterans need-based non-service-connected pension is limited to people immersed in economic deprivation.

Table 24 demonstrates that the net worth of veterans and survivors eligible to receive the need based pension is indicative of the need for the higher entitlement benefits of S. 2635.

TABLE 24.—VA STUDY MADE FEB. 20 AND 21, 1967, ON ALL CLAIMS FOR DISABILITY AND DEATH PENSION FILED ON THOSE DATES SHOWN

	Cases in study	Number net worth in excess of $15,000	Percent net worth in excess of $15,000	Average net worth of those in excess of $15,000
Veterans	834	18	2.2	$24,042
Survivors	807	34	4.2	30,844
All cases	1,641	32	3.2	28,489

	Veterans	Survivors
Average net worth, all cases	$1,358	$2,509
Average net worth for those with net worth	$3,110	$6,289
Percent who have some net worth	26.9	39.9
Average liquid assets, all cases	$824	$1,665
Average liquid assets for those with liquid assets	$3,638	$4,160
Percent who have some liquid assets	22.7	40.0
Average value real property, all cases	$786	$925
Average value real property for those with real property	$8,085	$8,996
Percent who have some real property	9.7	10.9
Average value other property, all cases	$71	$280
Average value for those who have other property	$1,812	$5,915
Percent who have some other property	3.9	4.7
Average value of debts, all cases	$799	$682
Average debt for those who have debts	$3,743	$2,865
Percent who have debts	21.4	23.8

Eligibility to continue under existing pension program

The Pension Reform Act provides that prior to the effective date of the new program those veterans and survivors who are in receipt of pension or eligible to receive pension can elect, if they choose to do so, to remain under the current programs. Generally, the vast majority will find it advantageous to elect to participate in the new program. But if they decide not to do so, they can continue receiving benefits under the current program and be assured that there will be regular increases in the rates and income limitations which respond to changes in the Consumer Price Index. This should guarantee that no veteran will be dropped from the rolls solely because of any cost-of-living increase in social security and should continue to insure that a veteran remaining on the pension rolls will not suffer an aggregate loss of income because of social security changes. This right of election or "grandfathering" of current pensioners has been recommended by the Veterans' Administration, and veterans organizations and was the same procedure utilized when the present system was established in 1959. Veterans under the current program may elect at any time in the future to switch to the new system but once that election is made, it is irrevocable.

INTERIM ADJUSTMENTS AND EFFECTIVE DATE OF NEW PROGRAM

Pension increases effective January 8, 1976

To allow the Veterans' Administration adequate time to prepare for implementation of the restructured pension program the reported bill establishes an effective date of October 1, 1976. As previously mentioned, because of this year's social security increases, 1,327,136 veterans and survivors are scheduled to sustain pension reductions effective January 1, 1976 (reflected in the February check). Another 41,840 will lose entitlement altogether. It should be noted that for all those veterans who remain on the rolls scheduled to sustain pension reductions that there will be no reduction in aggregate income according to the Veterans' Administration. The average annual reduction is estimated to be $98. The following table shows the changes in the Consumer Price Index which have occurred since January 1, 1975, the effective date of the last increase in pension:

TABLE 25.—SHOWING PERCENTAGE CHANGE IN CONSUMER PRICE INDEX SINCE PENSION INCREASE, EFFECTIVE JAN. 1, 1975

Date	CPI	Percent increase since last increase
Jan. 1, 1975	155.4	0
Feb. 1, 1975	156.1	.5
Mar. 1, 1975	157.2	1.2
Apr. 1, 1975	157.8	1.5
May 1, 1975	158.6	2.1
June 1, 1975	159.3	2.5
July 1, 1975	160.6	3.4
Aug. 1, 1975	162.3	4.4
Sept. 1, 1975	162.8	4.8
Oct. 1, 1975	163.6	5.3
Nov. 1, 1975	164.6	5.5

As a result of changes in the Consumer Price Index and because of the large number of veterans and survivors who will sustain pension reductions on January 1, 1976, the bill also provides for interim adjustments in the current program effective January 1, 1976.

An 8-percent increase in the rates payable and a $300 increase in the maximum annual income limitations are provided for veterans and survivors in the current program.

Similarly, maximum annual income limitations for the "old law" pensioners are increased by $300. An 8-percent increase in rates and increase in the annual income limitations are authorized also for needy parents receiving dependency and indemnity compensation. Finally, aid and attendance allowances for "housebound" are increased by 8 percent. Thus, under the current program the maximum rate for a veteran without dependents would be increased from $160 to $173 a month, while the rate for a veteran with a dependent would be increased from $172 to $186. The following tables show the rates currently payable and those proposed in titles II and IV.

TABLE 26.—PENSION PROPOSAL

Income not over	Veteran alone		Veteran and 1 dependent		Widow alone		Widow with 1 dependent	
	Current	Bill	Current	Bill	Current	Bill	Current	Bill
$300	$160	$173			$108	$117		
$400	157	170			107	116		
$500	154	167	$172	$186	106	115		
$600	150	163	170	184	105	114		
$700	146	159	168	182	102	111	$128	$139
$800	142	154	165	179	99	108	127	138
$900	138	149	162	176	96	105	126	137
$1,000	133	144	159	173	92	101	125	136
$1,100	128	139	156	170	88	97	124	135
$1,200	123	134	153	167	84	93	122	133
$1,300	118	128	150	164	80	89	120	131
$1,400	113	122	147	160	76	85	118	129
$1,500	108	116	144	156	72	81	116	127
$1,600	102	110	141	152	68	76	114	125
$1,700	96	104	138	148	64	71	112	123
$1,800	90	97	135	144	60	66	110	121
$1,900	84	90	113	140	56	61	108	118
$2,000	77	83	127	136	52	56	106	115
$2,100	70	75	123	132	48	51	104	112
$2,200	63	67	119	128	43	46	101	109
$2,300	56	59	115	124	38	41	98	106
$2,400	48	51	111	120	33	36	95	103
$2,500	40	43	107	116	28	31	92	100
$2,600	32	35	103	112	23	26	89	97
$2,700	24	27	99	108	18	21	86	94
$2,800	16	19	95	104	13	15	93	90
$2,900	8	11	91	99	8	9	80	86
$3,000	5	5	87	94	5	5	77	82
$3,100		5	82	89		5	73	78
$3,200		5	77	84		5	69	74
$3,300		5	72	78		5	65	70
$3,400			67	72			61	66
$3,500			62	66			57	62
$3,600			56	60			53	57
$3,700			50	54			49	53
$3,800			44	48			49	53
$3,900			37	40			49	53
$4,000			30	32			49	53
$4,100			22	24			49	53
$4,200			14	16			49	53
$4,300				8				53
$4,400				5				53
$4,500				5				53

TABLE 27.—DIC PARENTS

Income not over	1 parent		2 parents not together		2 parents together	
	Current	Bill	Current	Bill	Current	Bill
$300						
$400						
$500						
$600						
$700						
$800	$123	$133	$86	$93		
$900	120	130	84	91		
$1,000	117	127	82	89	$83	$90
$1,100	113	123	80	87	82	88
$1,200	109	119	76	83	80	86
$1,300	105	114	72	79	78	84
$1,400	100	109	68	75	76	82
$1,500	95	104	64	71	74	80
$1,600	90	98	60	67	72	78
$1,700	84	92	56	62	70	76
$1,800	78	84	52	57	68	74
$1,900	71	76	48	52	66	72
$2,000	64	68	44	47	64	70
$2,100	56	60	40	42	62	68
$2,200	48	52	35	37	60	66
$2,300	40	44	30	32	58	64
$2,400	32	36	25	27	56	61
$2,500	24	28	20	21	54	58
$2,600	16	20	14	15	51	55
$2,700	8	12	8	9	48	52
$2,800	4	5	4	5	45	49
$2,900	4	5		5	42	46
$3,000	4	5		5	39	43
$3,100		5		5	36	47
$3,200		5		5	33	30
$3,300		5		5	30	34
$3,400					27	30
$3,500					24	26
$3,600					20	22
$3,700					16	18
$3,800					12	14
$3,900					8	10
$4,000					4	6
$4,100					4	5
$4,200					4	5
$4,300						5
$4,400						5
$4,500						5

According to information supplied by the Veterans' Administration, if the interim adjustments contained in this measure are enacted, none of the 41,845 veterans or survivors currently scheduled to be terminated because of social security increases will be dropped. Further, 1,098,566 veterans, widows and dependents can expect to receive an average annual gain in pension of approximately $94.

And although no veteran or survivor will sustain a loss in aggregate income, solely as a result of social security increases, it should be explicitly acknowledged that even if provisions contained in titles II and IV are enacted, 655,000 veterans and survivors will sustain some reduction in pensions despite such adjustments. The following tables show the projected gains and losses with respect to the current pension population if titles II and IV are enacted into law.

TABLE 28.—ESTIMATED EFFECTS OF 8 PERCENT OASI INCREASE AS OF JAN. 1, 1976 (NEW LAW ONLY) AND OF S. 2635

With no change in law:	Number gaining pension	Average annual gain	Number reduced pension	Average annual reduction	Number gaining aggregate	Average annual gain	Number reduction aggregate	Average annual reduction	Number terminating
Veteran alone	0	0	225,567	$117	230,568	$48	0	0	6,602
Veteran w/dependent	0	0	467,339	123	464,738	136	0	0	17,805
Widow alone	0	0	526,391	79	530,528	82	0	0	16,748
Widow w/dependent	0	0	107,879	44	120,884	104	0	0	690
Total	0	0	1,327,176	98	1,346,718	97	0	0	41,845
With enactment of Title II of S. 2635:									
Veteran alone	202,825	$122	130,597	93	333,927	119	0	0	0
Veteran w/dependent	364,175	93	202,319	111	567,505	125	0	0	0
Widow alone	400,171	76	308,983	60	709,852	77	0	0	0
Widow w/dependent	131,395	110	13,369	18	145,063	136	0	0	0
Total	1,098,566	94	655,268	82	1,756,247	105	0	0	

Note: It is estimated that if there is no change in income limitations, 12,000 pensioners under the old law would have excessive income because of the 8 percent OASI increase, and that the vast majority of those would elect to come under new law.

The Committee wishes to reemphasize that under the new pension program authorized by titles I and III, which are an integral part of the reported bill, no veteran or survivor receiving benefits under the new program will ever suffer reduction in pension solely because of social security cost-of-living increases according to data supplied by the Veterans' Administration.

Effect of pension reform legislation

The effects of a major legislative change in any large Federal income maintenance program are always extensive and varied, and the Veterans and Survivors Pension Reform Act is no exception. The most important effect is that all eligible veterans and survivors will be guaranteed an income that places them above the poverty level. The Committee's immediate attention has, thus, been directed to the 34.1 percent of veterans and 48.5 percent of widows in receipt of pension who nevertheless have total incomes below the poverty level. For these veterans and widows, the bill provides a dramatic increase in benefits. A single veteran with no income would receive $2,700 under this bill, a 40-percent increase over the current maximum of $1,920. Veterans with dependents currently receive a maximum payment of $2,064; under the reform act they will receive $3,900, an annual increase of $1,836 or an 89-percent increase. Significant increases are also provided to widows who for the first time will receive benefits equal to those available to veterans. The current maximum of $1,296 will be increased to an annual income of $2,700 while widows with dependents who now receive a maximum $1,536 will be assured $3,900 a year. Those who have some nonpension income, of course, will receive proportionately reduced increases. The importance is that this measure is aimed at providing a rational, cost-effective system, that insures that available tax dollars are applied to those who need it and in proportion to their needs. The Committee wishes to reemphasize the importance of restructuring the system so that these objectives are accomplished, particularly with the millions of veterans approaching age 65.

Position of the veterans organizations

All veterans organizations appearing before the Committee were in agreement that the present pension system is inadequate and flawed and testified in support of the objectives of S. 2635, the "Veterans and Survivors Pension Reform Act".

The American Legion testified that the current pension system and the periodic amendments to it is "not a satisfactory solution". It endorsed the approach contained in S. 2635 which it said would "correct the inequities and anomalies" in the present system. It recommended, however, higher support levels of $3,300 and $5,500. Further, The American Legion indicated its belief that such legislation should be considered prior to the expiration of the current fiscal year.

The Veterans of Foreign Wars also recognized the importance of immediately revising a "pension program which causes one-third of our older veterans to go without the food they need and one-quarter of these unable to afford medical care. . . .". They endorsed the concept of S. 2635, which they termed the "most comprehensive bill before the subcommittee" which "makes highly desirable changes in the pension program" and would make it "possible for our veterans and their widows to live out their lives with dignity above the poverty levels". They testified in support of higher support levels of $3,300 and $5,500 instead of the $2,700 and $3,900 levels in S. 2635, which they indicated was their "only complaint about this bill".

Mrs. Anna Fuhrer, National President of the Widows of World War I, testified for that group's support of S. 2635, particularly with reference to equalization of widows benefits. She noted that under current law:

"A widow with an income of $2,900 a year is given the same amount of pension as a veteran with that income. What did she do to "earn" more than the widow who receives $108 in pension while her veteran counterpart receives $160? I cannot understand what makes anyone think that a woman can live on two-thirds of the amount needed by a man. Rents, utilities, and food costs the same regardless of sex. It may no longer be true, but I know that for years, the widows of Spanish-American War veterans received the same amount of pension as the veterans themselves. Why should different criteria be applied to widows of World War I veterans?"

The Veterans of World War I of the U.S.A., Inc. testified that they were mandated by their members to seek a "meaningful or realistic pension" and that with respect to "S. 2635, we support the measure and its objectives".

In response to questions posed by the chairman of the Subcommittee on Compensation and Pensions, they explicitly supported the objectives of a need-based pension system and supported giving greater benefits to the needy; treating similarly-circumstanced veterans alike; equalizing widows pensions; and, including automatic cost-of-living provisions; they further acknowledged that S. 2635 was more likely to achieve these goals than the present system.

In their testimony they also suggested that upon reaching age 78, there should be a statutory presumption that a pensioner is "house bound" and hence qualify for such additional allowances as may be authorized by law. The Committee believes that such an approach might well be justified, but it is of the opinion that any action should be deferred at present pending further study.

The Disabled American Veterans in testimony submitted to the Committee noted that as an organization which is devoted to wartime disabled and surviving widows, children and dependent parents of servicemen and veterans who die of service-connected causes that "in the absence of a national convention mandate, we have no official position regarding the pension proposals," for non-service-connected veterans. They did indicate in general, however, that they did not oppose reasonable objectives in the non-service-connected pension program and that "we (the DAV) fully support the principle of providing the greatest benefits for those who are most in need."

With respect to the dependency and indemnity compensation for dependent parents of veterans who have died of service-connected causes (which would be restructured by title III of S. 2635, to assure a level of income above the poverty level) the DAV said:

"It is quite obvious that the existing DIC rates for dependent parents are so grossly inadequate that the maximum payment of $1,476 per year, is far below the current official poverty level of $2,590 for a single individual.

"We therefore believe that a very substantial increase in the DIC rates for those needy parents is both necessary and equitable and we urge enactment of appropriate legislation to achieve this worthy objective."

The Paralyzed Veterans of America, whose membership is composed of both service-connected and non-service-connected disabled veterans, testified that they "basically support the concept of S. 2635. We feel that a reform of this nature is definitely needed in the current program." In large measure, their testimony was directed to the particular problems of about 19,000 (according to their estimates) non-service-connected catastrophically disabled veterans, who they said should receive "special consideration." In order to properly evaluate a number of proposals to aid such veterans, the Committee awaits with interest the detailed results of a survey being conducted by the Paralyzed Veterans of America of 5,000 non-service-connected veterans who are catastrophically disabled and in receipt of pension.

The Committee found the testimony of various veterans organizations most helpful and was pleased by the uniform general support of the concept embodied in S. 2635.

The desire for higher support levels than those established by the reported bill is understandable. In the context of current overall budgetary considerations and administration policy, however, the Committee does not believe it could recommend or that legislation at those levels could be enacted now which would result in additional mandatory expenditures of $2.8 billion in the first year alone.

COST ESTIMATES

Estimating the cost of government programs is an inexact science at best. In considering pension restructuring proposals during the past 2 years, the Committee discovered that sufficient analytical staffing and an advanced computer simulation model at the Veterans' Administration capable of making sophisticated cost projections were lacking. This led to determined efforts on the part of the Committee to develop more accurate cost estimates, as discussed previously under "Considerations and Proposals to Restructure the Non-Service-Connected Pension Program During the 93d and 94th Congress" supra. Extensive correspondence and memoranda concerning the new computer simulation model, its capabilities and its shortcomings can also be found reprinted in AGENCY REPORTS *infra*. In developing cost estimates for this program there has also been extensive consultation on a staff level with the Senate Budget Committee and the Congressional Budget Office.

In sum, the Committee believes the estimates submitted by the Veterans' Administration as to maximum budgetary outlays to be as accurate as currently possible given existing information and the state of the art. Accordingly, it adopts them as its own.

These figures, however, are subject to offset reductions both in terms of budgetary outlays and budgetary authority. Projected offsets which have been developed by the Congressional Budget Office are discussed hereinafter.

The Veterans' Administration estimates the fiscal 1976 cost attributable to S. 2635 to be $100.1 million. Costs for the Transition Quarter are estimated at $50 million. These figures have been included in the reestimates for "function 700-Veteran Benefits" as passed by both the House and the Senate in their respective versions of the Second Concurrent Budget Resolution currently pending in conference. A waiver of the provisions of section 303(a) of the Congressional Budget Act of 1974 with respect to S. 2635, concerning budgetary authority for fiscal year 1977, is sought through Senate Resolution 322 reported by the Committee, December 9, 1975.

The Veterans' Administration estimates maximum outlays under S. 2635 to be as follows:

TABLE 29.—*Veterans' Administration estimate maximum outlays under S. 2635*

Fiscal year:	*Costs (millions)*
1977	$798.9
1978	1,132.1
1979	1,273.3
1980	1,322.7

In developing cost estimates, the Veterans' Administration noted "several caveats" which they said should be taken into account in considering their cost estimates. In particular they said:

As with any estimate for a program made prior to its inception, it should be viewed as a magnitude figure only. There is no historical data upon which to base a precise projection. The estimate assumes that all recipients of PL 86-211 pension who would be eligible for a higher benefit under reform will elect to switch to the new program. However, our experience after the enactment of PL 86-211 would indicate that some portion of those cases which would benefit from election will fail to do so. The impact of new cases which will accede to the reform rolls is even more difficult to gauge. As these accessions will be coming on under different eligibility requirements than those applicable to current cases, we can only hypothesize their income characteristics. In addition, numerous aspects of the national economy, i.e. inflation, unemployment, etc.; must be projected and their impact considered. Notwithstanding the fact that a highly sophisticated technique, i.e. computer simulation, was used to make this estimate, its accuracy is circumscribed by the necessity of projecting a substantial portion of the significant variables.

In this connection it should be noted that the cost estimates assume that all current pension recipients who would be eligible for higher benefits under the reform program will elect to switch to the new program. However, experience following enactment of Public Law 86-211 would indicate that some portion of those cases who would benefit from the election will fail to do so. In the first 2 years of that program only 37 percent of those pensioners who would have benefitted by electing the new program actually did so.

If a similar pattern develops, the cost estimates could be considerably overstated.

Of even greater importance are offsets from other Federal programs which should occur if S. 2635 is enacted into law. In particular, the Congressional Budget Office has estimated that in fiscal year 1977, the maximum potential offsets in Supplemental Security Income (SSI), Aid to Families with Dependent Children (AFDC) and Food Stamp programs should be $313 million as shown in the following table:

TABLE 30.—MAXIMUM POTENTIAL OFFSETS TO OTHER FEDERAL PROGRAMS

[Dollar amounts in millions]

	Veteran alone	Veteran with dependent	Surviving spouse	Surviving spouse and dependent	Total maximum savings
Supplementary security income	none	56	74	[1] 67	$197
Food stamps	14	38	39	25	116
Total	14	49	113	29	313

[1] Benefits to surviving spouse with dependents include aid to families with dependent children (AFDC), which varies widely by State.

Such a maximum estimate would reduce the fiscal year 1977 net Federal cost from $798 million to $485 million. Of course, such a figure represents a budget authority offset since it assumes all veteran pensioners who would benefit from these programs participate in them. In point of fact, there is no universally accepted data available concerning the actual participation rate in these programs for either the total eligible population or for veterans in particular. Accordingly, in order to estimate offsets to budgetary outlays as opposed to offsets to budgetary authority, the Congressional Budget Office assumed that there would be a 50 percent participation rate in SSI and AFDC programs and a 25 percent participation rate in food stamps thus resulting in offset of $128 million, which would result in a fiscal year 1977 cost of $670 million. In particular, the Congressional Budget Office said:

"Most current estimates indicate that Food Stamp programs attract between 40 and 50 percent of those eligible. The AFDC participation rate is apparently in the 80 to 90 percent range. SSI participation rates are not well established but are expected to be around 50 percent.

"The information on veteran participation in these programs is even sketchier. A 1975 study of veterans over 72 years of age indicates that 11,274 of them received SSI assistance while 5,862 used Food Stamps. Though these figures represent a small fraction of the total veteran population over 72 years old, they translate into a 66 percent participation rate for SSI and a 9 percent participation rate for Food Stamps among those eligible for the program. A 1973 AFDC study indicated that over 26,000 beneficiaries also received veterans pensions. Almost all AFDC beneficiaries would fall into the surviving spouse and dependent category though others in the same group would be eligible for the SSI program.

"The maximum potential offset of about 313 million dollars should thus be significantly reduced to reflect the fact that these income security programs have substantially less than 100 percent participation rates. A reasonable assumption would be a 50 percent participation rate in SSI and AFDC programs and a 25 percent for Food Stamps yielding an offset of about $128 million."

Their complete report to the Committee on Veterans' Affairs dated December 9, 1975 can be found reprinted in full in AGENCY REPORTS *infra*.

Thus utilizing the offset figures prepared by the Congressional Budget Office, the Committee estimates net budget outlays to be as follows:

TABLE 31.—S. 2635 BUDGET IMPACT

[Amounts in millions; fiscal years]

	1977	1978	1979	1980
Budget outlays	$798.9	$1,132.1	$1,273.3	$1,322.7
Offsets	128.0	169.0	211.0	238.0
Net outlays	670.9	963.1	1,062.3	1,084.7

Finally, the Committee believes it important when examining the projected cost estimates of S. 2635, not to view them in isolation. That is, those costs should not be contrasted with Congressional inaction, but rather the traditional Congressional response of annually increasing pension rates and maximum annual income limitations to offset annual automatic increases in social security benefits. Although such data is incomplete and still being developed, there are positive indications that in addition to a

more rational distribution of pension benefits, S. 2635 will also result in significant long-range cost savings.

TABULATION OF VOTES CAST IN COMMITTEE

Pursuant to section 133(b) of the Legislative Reorganization Act of 1946, as amended, the following is a tabulation of votes cast in person or by proxy of the Members of the Committee on Veterans' Affairs on a motion to report S. 2635, with an amendment, favorably to the Senate:

Yeas—9

Vance Hartke
Herman E. Talmadge
Jennings Randolph
Alan Cranston
Richard (Dick) Stone
John A. Durkin
Clifford P. Hansen
Strom Thurmond
Robert T. Stafford

Nays—0

SECTION-BY-SECTION ANALYSIS AND EXPLANATION OF S. 2635

Section 1

This section provides that the Act may be cited as the "Veterans and Survivors Pension Reform Act".

TITLE I—REFORM OF THE NON-SERVICE-CONNECTED PENSION PROGRAM FOR VETERANS AND THEIR WIDOWS

Section 101

This section amends section 503 of title 38, United States Code, to redefine the allowable exclusions in computing annual income for the purpose of determining pension payments. Under current law there are 18 income exclusions, some of which have created inequitable situations where similarly-circumstanced veterans with identical incomes from non-Veterans' Administration sources receive different pension payments. Different pension payments occur because the law currently distinguishes as to the source of income and excludes in whole or part certain income in determining a veteran's total annual income upon which pension entitlement is based.

In order to assure that pension programs are aligned more closely with each pensioner's needs, allowable exclusions, in most instances, are limited to situations which are neither annual events nor typical income accrual mechanisms. Certain exclusions which represent unusual situations and do not conflict with the principles of the pension system are retained and included in the new program as follows:

§ 503. Determinations with respect to annual income

(a) All income from all sources is included as annual income unless specifically excluded by this section. Any and all income waived by a recipient is regarded as income to the recipient despite compliance with any other laws unless the income is excluded by this section.

Clause 1, excluding payments under this chapter and chapters 11 and 13 (except section 412(a)) continues present law as recommended by the Veterans' Administration in pension reform proposals advanced by them in 1973 and 1974.

Clause 2, which excludes donations from public or private relief or welfare organizations, continues present law as suggested by the Veterans' Administration. Failure to exclude would result in a crossing between SSI and the veteran's pension. Currently, SSI uses veterans pension to determine eligibility and entitlement benefits. It is intended that this clause aid in maintaining the veteran pension system as a preferred pension system.

Clause 3, which excludes amounts equal to amounts paid by a spouse for the veteran's last illness or in the case of deceased veteran amounts paid by a surviving spouse, continues present law. The Veterans' Administration in the draft of a pension reform measure submitted to the Committee, included the provision as an exclusion. Originally included as an exclusion in Public Law 86-211, the provision is not violative of the principles of a need-based pension system.

Clause 4, a clause which permits the exclusion of amounts paid by a veteran for the last illness of his spouse continues present language. The statutory language is varied slightly from that of the current statute but the intent remains the same. The statutory language has been altered to accommodate the utilization of "surviving spouse" rather than continued gender references.

Clause 5, the proceeds of fire insurance policies, continues present law. The history of this provision predates the inception of the pension system of Public Law 86-211 in 1959. The Veterans' Administration in testimony in 1973 and 1974 concurred in the advisability of the continued allowance of fire insurance proceeds as exclusion when computing annual income.

Clause 6, the profit realized from the sale of property other than in the course of business, continues present law as suggested by the Veterans' Administration. Many older pensioners sell their homes. To assure that this sale would not result in termination of pension benefits the exclusion of the proceeds is authorized. Should the money received for property sold be of an amount which would make it reasonable that some part of the corpus be consumed for the veteran's maintenance, it is possible for the Administrator to so rule under section 522 of this act and section 103 of the bill to be described *infra.*

Clause 7, a clause which would exclude from income amounts in joint accounts in banks acquired by reason of death is a continuation of present law. The exclusion was suggested continued by the Veterans' Administration.

Clause 8, would exclude from computation of annual income $780 of any earned income not otherwise excluded by section 503.

Clause 9, an exclusion of earned income over $780 would exclude from the computation of annual income one-half the earned income of spouses of veterans when the veteran is in need of aid and attendance or permanently housebound. This exclusion is particularly applicable to those young veterans catastrophically disabled whose spouses continue to work to assure that the veteran remains out of the hospital in addition to aiding the family in attaining a dignified standard of living. Further, the added costs of aid and attendance disability necessitate added pension income. The Committee is aware of a recent study conducted by the Paralyzed Veterans of America which raises a number of as yet unanswered questions covering the adequacy of current aid and attendance allowance. Accordingly, the reported bill allows the exclusion of one-half of the earned income.

The exclusion is limited to those spouses of those veterans in need of aid and attendance or housebound allowance. Need for aid and attendance is limited to those who are helpless or so nearly helpless as to require the regular aid and attendance of another person. A veteran or widow will be considered in need of regular aid and attendance as follows: If he or she is blind or so nearly blind as to have corrected visual acuity of 5/200 or less, both eyes, or concentric contraction of the visual field to 5 degrees or less; is a patient in a nursing home on account of mental or physical incapacity; or establishes a factual need for aid and attendance under criteria set forth in VA Regulation 1352(a) (38, U.S.C. 502(b); Public Law 90-77, Public Law 92-197). VA Regulation 1352(A) qualifies those eligible for aid and attendance as follows:

"Inability of claimant to dress or undress himself [(herself)], or to keep himself [(herself)] ordinarily clean and presentable; frequent need of adjustment of any special prosthetic or orthopedic appliances which by reason of the particular disability cannot be done without aid (this will not include the adjustment of appliances which normal persons would be unable to adjust without aid, such as supports, belts, lacing at the back, etc.); inability of claimant to feed himself [(herself)] through loss of coordination of upper extremities or through extreme weakness; inability to attend to the wants of nature; or incapacity, physical or mental, which requires care or assistance on a regular basis to protect the claimant from hazards or dangers incident to his [or her] daily environment. "Total blindness" as well as "bedridden," will be a proper basis for the determination. For the purpose of this paragraph "bedridden" will be that condition which, through its essential character, actually requires that the claimant remain in bed. The fact that claimant has voluntarily taken to bed or that a physician has prescribed rest in bed for the greater or lesser part of the day to promote convalescence or cure will not suffice. It is not required that all of the disabling conditions enumerated above be found to exist before a favorable rating may be made. The particular personal functions which the veteran is unable to perform should be considered in connection with his [or her] condition as a whole. It is only necessary that the evidence establish that the veteran is so helpless as to need regular aid and attendance, not that there be a constant need. Determinations that the veteran is so helpless, solely by reason of service-connected compensable disease or injuries (38 U.S.C. 310 and 331) or without regard to service connection (38 U.S.C. 511 and 512) as to be in need of regular aid and attendance will not be based solely upon an opinion that the claimant's condition is such as they would require him [or her] to be in bed. They must be based on the actual requirement of personal assistance from others. If the claimant is able to be out of bed and can walk around entirely unassisted by others, he [or she] cannot generally be regarded as meeting the requirements of the law and VA regulations; however, the other enumerated types of personal assistance must be considered."

Housebound determination (for which a veteran can qualify but not a surviving spouse) is paid to a person permanently and totally disabled who, in addition, has a disability independently ratable at 60 percent or more or by reason of his disability or disabilities is permanently housebound but does not qualify for aid and attendance. This requirement is met when the veteran is substantially confined as a direct result of disabilities to his [or her] dwelling and the immediate premises or, if institutionalized, to the ward or clinical area, and it is reasonably certain that the disability or disabilities and resultant confinement will continue throughout his [or her] lifetime.

The philosophy which motivated allocation of an aid and attendance allowance is the desire on the part of Congress to help alleviate additional financial burdens caused as a result of infirmity and/or specific individual medical problems. As just noted, the recent survey done by the Paralyzed Veterans of America asserted that the aid and attendance allowance benefits supposedly designed to counterbalance extraordinary medical expenses were meager. This exclusion of one-half of the spouse's income permits the supplementation of aid and attendance allowance in counterbalancing heightened medical costs by excluding from computation one-half the earned income of the spouse. This provides a work incentive and allows private contribution in the absence of additional public assistance.

Clause 10, is a new provision which would exclude expenditures made by pensioners for medical needs was added at the request of the Veterans' Administration. Fully cognizant of the crippling financial circumstances which occur as a result of rising medical expenses it is thought that pensioners can be encouraged to seek necessary medical attention by assuring that financial position is not jeopardized by spiraling medical costs. The exclusion in the reported bill is not as broad as the one suggested by the Veteran's Administration. The VA suggested that 5 percent of the pension be used as the base medical figure over which any medical expenditure would be excluded. The bill specifies that the 5 percent figure over which medical expenditures are excluded is calculated from the pensioner's actual income. In this way, needy pensioners receiving the full pension entitlement will not be penalized and the medical exclusion can be obtained in the same needs-based fashion as pension benefits are allocated.

Subsection (b) continues current practice by providing that where a fraction of a dollar is involved, annual income shall be fixed at the next lower dollar.

Section 102

Clause 1 amends subsections (b), (c), (d), and (e) of section 521 of title 38, United States Code, currently prescribing rates of pension for veterans, to create a new pension system. Under this system an eligible veteran, with no other countable income, will receive pension payments equal to an annual level of minimum need established by law. If the veteran receives income from other sources, that income is deducted dollar for dollar from the congressionally-established standard of need with the Veterans' Administration paying the difference as pension. A veteran's pension system of this sort was suggested as early as 1959 by the Bradley Commission which concluded: "Within the veterans' pension system the objective should be to meet first needs first, providing assistance to those who require it most in terms of commonly accepted standards of need . . ." The Veterans' Administration recommended this type of program known as a "one-variable" system in testimony before the Committee in 1973 and 1974 although at considerably lower standards of need than are established in this measure. Today the current maximum level of pension payments do not even reach the officially recognized poverty level. The levels provided in this bill will exceed that standard as shown below:

TABLE 30.—*Pension comparison*

Payment level:	*Single*	*Couple*
Poverty level (1974)	$2,590	$3,410
Current law	1,920	2,064
Reform proposal	1,700	3,900

The pension system proposed, unlike current law, would authorize rates which exceed the current rates payable under our national welfare program, the Supplementary Security Income program.

This section would also provide for aid and attendance payments by establishing a higher standard of need for those veterans in need of aid and attendance. Reduction of this aid and attendance allowance because of increased annual income will occur on a dollar for dollar basis rather than being discontinued in a lump sum as is the present case when maximum annual income levels are reached. The amendments are more fully described as follows:

§ 521. Veterans of the Mexican Border period, World War I, World War II, the Korean conflict, or the Vietnam era

Subsection (b) of section 521 is amended to provide that an eligible veteran without dependents (and also not eligible for aid and attendance or housebound allowances) would receive a monthly pension at an annual rate of $2,700 reduced by the amount of the veteran's annual income. Currently section 521 (a) authorizes monthly rates which range from a maximum of $160 ($1,920 per annum) to $5 ($60 per annum) subject to the veteran's annual income which may not exceed $3,000. Under the proposed amendment the maximum monthly pension payments for the lowest-income pensioners would be increased by $65 to $225 per month.

Veterans with no other income would thus receive an additional $780 per annum under amendments made by the bill.

Subsection (c) of section 521 is amended to provide that an eligible veteran with one dependent (but not eligible for aid and attendance or housebound allowances) would receive a monthly pension at the annual rate of $3,900 reduced by the amount of the couple's annual income. For each additional dependent of a veteran the maximum annual rate is increased by $360. Currently, section 521(c) authorizes monthly rates for a veteran with one dependent which range from a maximum of $172 ($2,064 per annum) to $14 ($168 per annum) subject to an annual income limitation of $4,200. Under the proposed amendment, an eligible couple with no other income would receive $325 per month, nearly double the rate currently paid to veterans with a dependent. Lesser payments, of course, would be made to those pensioners who had annual income determined per section 503 as described infra.

Subsection (d) of section 521 is amended by authorizing higher standard of support to include aid and attendance allowances for those who are eligible. At present, any veteran in need of "aid and attendance" receives an additional $123 per month ($1,476 per annum). However, if the veteran should gain enough income in a particular year to lose the last dollar of regular pension, he also loses the entire $1,476 in aid and attendance allowance at the same time, which has significant impact upon individual recipients. In order to prevent this immediate lump sum loss, clause 1 of section 521(d) as amended, would raise the guaranteed annual income level for which a pensioner is eligible to reflect the additional annual aid and attendance allowance. By providing an 8-percent increase in current monthly aid and attendance allowances from $123 to $133 (reflecting changes in the Consumer Price Index since they were last adjusted), the total additional annual income from aid and attendance would be $1,596. This is added to the annual pension rate of $2,700 for a single veteran to provide a maximum $4,296 in annual pension subject to reduction by the pensioners' annual income. Thus, under this section, as amended, a veteran's aid and attendance allowance would gradually be "dollared down" as non-pension income increases rather than lost in one lump sum.

Similarly, clause 2 of section 521(d) authorizing aid and attendance allowances for veterans with dependents is amended by adding $1,596 in annual aid and attendance allowances to the proposed maximum annual rate of $3,900 to provide a maximum annual rate of $5,496 plus such other allowances for additional dependents as are authorized. The amount of annual income would be deducted from the maximum rate of $5,496 to determine entitlement total.

Subsection (e) of section 521 is amended to provide a similar system of payment of housebound allowances as is provided in subsection (d) for aid and attendance allowances. Thus, the pension provided to a single veteran eligible for household allowances would be $3,336 reduced by the amount of his annual income. Similarly the annual pension for a veteran with dependents would be $4,536. In each instance, allowance is made for additional dependents and reduced by the amount of annual income.

Clause 2, of this section would amend section 521(f) to include the income of the spouse and dependent or dependents of a veteran which is reasonably available to the veteran as the income of the veteran. Under current law $1,200 of the spouse's unearned income or the total amount of earned income of the spouse is excluded from consideration in determining need for pension. The Veterans' Administration has testified that this has created a number of inequities in which veterans received a need-based pension even though their spouses were earning in excess of $15,000 and in some cases in excess of $25,000. This exclusion of wives' earned income and of a limited amount of non-earned income often created a false standard of need by basing the pension on a veteran's income rather than on the family income reasonably available to them. For example, a veteran who is receiving social security at the rate of $1,111 per annum, whose spouse is receiving $6,000 in earned income none of which is countable in determining pension, will receive $1,548 in pension for a total income of $8,659.

Another veteran with the same amount of social security, $1,111, and a spouse who is receiving retirement income of $1,111 will receive the same amount of pension for a total income of $3,770 per annum. The pension program provides the first couple with income because the system declares them to be in an equal need situation with the second couple, when in reality they have an additional $5,000 per annum. The Veterans' Administration testified in hearings before the Senate Committee on Veterans' Affairs in 1974 that over 15,000 couples receiving pension for veterans with one dependent had incomes in excess of $15,000. The amendments made by this clause would align pension payments much closer to need.

Of course, a small earned income exclusion is provided in section 101 of this bill for reasons explained there which is not expected to produce the anomalies mentioned above.

Clause 3, would add a new subsection (h) to section 521, authorizing pension to be paid less frequently than monthly if the amount of the monthly payment is less than $10. This amendment is intended to reduce administrative workloads and provide a more efficient method of payment.

Section 103

This section would amend section 522 which denies or discontinues pension payments when a veteran's net worth might reasonably be consumed for the veteran's maintenance. The veteran's income is considered in determining need. Further, whenever the veteran is reasonably contributing to or living with a spouse, a child, or children under subsection (c), (d), or (e) of section 521, the net worth of the dependent or dependents and the income of the dependent or dependents is considered in determining whether net worth should be consumed for the maintenance of the veteran and dependents. It is the Committee's intention that whenever the net income and corpus of a child or children are evaluated to determine whether the corpus should be consumed for maintenance, consideration should be given to the accumulation of income and corpus on the part of the child or children for future educational goals and such other objectives as deemed worthy by the Administrator. This amendment would further align pension benefits more closely to actual need.

Section 104

Section 104 amends subsections (b), (c) and (d) of section 541 of title 38, United States Code, currently prescribing pension rates for surviving spouses of veterans who died from non-service-connected causes. A new pension system is created consistent with that proposed for veterans in section 102 discussed *supra.* As amended, the pension program for surviving spouses provides benefits

for survivors equal to those for which a veteran is eligible. Currently, a surviving spouse's pension is approximately two-thirds that of the veteran's. The pension reform system created as described in section 102 *supra* is a need-based system which pays similar amounts to people similarly situated. The Twentieth Century Task Force reported that "no rational grounds" for the differentiation between the veterans' pension program and the widow's pension could be found. The Veterans' Administration in testimony before the Veterans' Committee in June 1973, described the present two-thirds relationship between veterans and surviving spouse's "inequitable." Further, they commented that the two-thirds relationship resulted in "two classes of beneficiaries in like circumstances and with the same need for assistance" being "treated quite differently."

Whether a surviving spouse should be accorded equal treatment with those who earned the benefits was an issue confronted in Senate Report No. 92-1230 on the Social Security Amendments of 1972. That act increased widows' rates from 82.5 percent of the workers retirement benefit to 100 percent of the worker-husband retirement benefit. The Senate Committee on Finance found not surprisingly, that ". . . the expenses of a widow living alone are no less than those of a single retired worker." The same committee observed that "no reason for paying aged widows less than the amount which would be paid to their husbands as retirement benefits" could be found. The committee believes the same observation is true for surviving spouses of veterans who died from non-service-connected disabilities. Equalization of benefits has been supported by the Veterans' Administration in their draft pension reform measures submitted in 1973 and 1974.

Equalization of benefits is also supported by The American Legion, the Veterans of Foreign Wars, Veterans of World War I, and the Widows of World War I.

Steps are also taken in section 541 to integrate children into the new pension system created by the reported bill. Under the current pension system the children do not exist as an integral part of the pension program. Though more pension benefits are given a spouse or veteran whenever children are present, the children's program exists as adjunct apart from others entitled to pension. With the extended inclusion of children, in pension benefits entitlement comes examination of their assets and incomes to determine whether children's corpus and income should be consumed for a veteran or surviving spouse's maintenance as described in section 103 *supra*. Currently a widow's entitlement can go no lower than the entitlement for which a child would be eligible. Under the new system the amount of entitlement for which a widow and child are eligible is equivalent to a veteran and spouse similar situated. Inasmuch as both the spouse and the veteran's annual income is included in determination of pension as described in section 101 *supra* so too should the income of children be considered whenever pension benefits are paid for or to them.

It is the Committee's intention that whenever the net income and corpus of a child or children are evaluated to determine whether the corpus should be consumed for maintenance consideration should be given to the accumulation of income and corpus on the part of the child or children for future educational goals and such other objectives as deemed worthy by the Administrator.

§ 541. Widows of Mexican Border Period, World War I, World War II, Korean conflict or Vietnam era veterans

Subsection (*b*) of section 541 is amended to provide that a surviving spouse without an eligible dependent would receive a monthly pension at an annual rate of $2,700 reduced by the amount of the spouse's annual income. Currently, section 541(b) authorizes monthly rates for surviving spouse which range from $108 ($1,296 per annum) to $5 ($60 per annum) per month subject to the surviving spouse's annual income which may not exceed $3,000. Under the proposed amendment the monthly pension payments would range from $225 to $1 depending on the amount of annual income. For the poorest pensioners the maximum monthly pension payment would be increased by $117 per month.

Subsection (*c*) of section 541 would be amended to provide that a surviving spouse with custody of one dependent would receive a monthly pension at the annual rate of $3,900 reduced by the amount of the surviving spouse's and the dependent's annual income. If the spouse has custody of two or more dependents, the annual rate is increased by $360 for each dependent in excess of one. Under current law the rates for a surviving spouse with one dependent range from $128 ($1,536 per annum) to $49 ($588 per annum) with the spouse with a dependent never receiving less than the $49 rate a child alone is entitled to receive under other provisions of title 38. Payment of these pension rates is subject currently to the surviving spouse's annual countable income which may not exceed $4,200. Under the reform proposal the minimum standard of need for the veteran with dependent is set at $3,900 which would provide a maximum benefit for a surviving spouse and child of $325 per month, an increase of $197 per month for those widows with little or no other income. This would for the first time raise benefits for those surviving spouses with no other sources of income above the poverty level.

The rate payable to spouses and dependents is reduced by the amount of annual income as described in subsection (e) *infra*. The introduction of "custody" defining the relationship between a spouse and dependents is not intended to change present law concerning determination of when a spouse is eligible to receive additional pension benefits due to the presence of dependents.

Subsection (*d*) of section 541 is amended by eliminating the allowances provided for additional dependents which have been incorporated in new subsection (c) and by inserting a new provision to increase administrative efficiency by authorizing that pension may be paid less than monthly if the amount of the monthly payment would be less than $10.

Subsection (*e*) is added to include child's income in determination of pension benefits whenever there is a surviving spouse with one or more children. In order for the income of a child or the income of children to be considered as income of the surviving spouse the income must be reasonably available to or for the surviving spouse.

Section 105

Clause 1 amends section 542(a) of title 38, United States Code, currently by prescribing rates of pension for surviving children (other than those children in the custody of a surviving spouse having basic eligibility for *supra*) to create a new pension system consistent with that authorized for veterans and surviving spouses discussed previously.

Under current law where there is no eligible widow, a surviving child receives $49 per month ($588 per annum) and $20 ($240 per annum) for each additional child (with payments to eligible children in equal shares). Subsection (a) of section 542 is amended to provide that the first child would be eligible for $100 per month ($1,200 per annum) with $30 ($360 per annum) for each additional child with payments in equal shares. Thus, if there were two surviving children they would receive $130 per month ($1,560 per annum), reduced by the amount of each child's annual income.

If there are two children each would be entitled to a maximum pension of $780 a year (one-half of $1,560). The maximum pension would then be reduced by the amount of each child's annual income. In no event shall the annual income of one child reduce the amount of pension to which another child is entitled.

Clause 2, repeals subsection (c). Inasmuch as the entitlement for children is determined under the pension system in the same manner as veterans and surviving spouses there is no need for income limitations. Rather each child's pension is reduced by the amount of his individual annual income.

SECTION 106

This section retains the context of present section 543 of this title but rewords and restructures the section to assure that the income and corpus of children are considered in determining whether part of corpus should be consumed for the surviving spouse's maintenance whenever the surviving spouse is in receipt of benefits as a result of having custody of a child or children. This construction permits the treatment of the surviving spouse-child relationship in the same manner as a veteran and spouse is treated. Further whenever a child is eligible under section 542 of this title the corpus of the estate of the child and the income of the child is considered in determining whether it is reasonable that some part of the corpus be consumed for the child's maintenance; all as more fully described as follows:

§ 543. Net worth limitation

Subsection (*a*) of section 106 amends section 543 of title 38 to make more specific that the income of the surviving spouse is included with corpus in determining whether it is reasonable that some of the corpus be consumed for the surviving spouse's maintenance.

Subsection (*b*) is added to section 543. It is applicable when the payment of pension is made under section 541(c) described *supra*.

Whenever a surviving spouse is in receipt of pension benefits because she is in custody of a child or children the corpus of the estate of the children and the income of the children are both considered in determining whether corpus should be consumed for the maintenance of the surviving spouse and the children in the surviving spouse's custody.

Subsection (*c*) would permit a net worth determination whenever a child is eligible for pensions under section 542 of this title as described *supra*. This makes more specific the inclusion of the corpus of the estate of children eligible in addition to the inclusion of income whenever the Administrator is considering whether it is reasonable that some part of the corpus be considered for the particular child's maintenance.

SECTION 107

This section amends section 544 of title 38, United States Code, currently prescribing aid and attendance allowances for eligible surviving spouses to make such allowance consistent with those provided veterans under section 102 of this bill all more fully described as follows:

§ 544. Aid and Attendance Allowance

Subsection (*a*) would be amended to provide that the pension payable to a surviving spouse with no dependents who is in need of aid and attendance will be $4,296 per annum, subject to the reduction by the surviving spouse's annual income.

Subsection (*b*) would be amended to provide that pension payable to a surviving spouse with one dependent under section 541 (c), who is in need of regular aid and attendance will be $5,496 plus any additional allowances for dependents in excess of one, subject to reduction by the spouse's annual in-

come and the annual income of the child or children in the surviving spouse's custody.

Section 108

Subsection (a) of section 107 amends chapter 53 of title 38, United States Code, by adding a new section 3112 providing for annual adjustment of benefit rates.

This section would provide for automatic cost-of-living increases for the new reform pension program adopted in this act.

The Veterans' Administration recommended automatic upward adjustment in benefit rates tied to changes in the Consumer Price Index in both drafts of their reform proposals submitted in 1973 and 1974. The inclusion of automatic adjustment provisions will insure that veterans and widows under the new pension system will receive increased benefits which fully compensate for changes in the Consumer Price Index. This provision also should eliminate conflict between veterans' pensions and social security.

Each time social security increases under current law, veterans pensions are often reduced the following January.

Continuing refinements in current law are intended to insure that for those veterans and widows continuing to receive pensions, there never is an aggregate loss in combined Federal income. Nevertheless pensioners continue to be upset over a system which they believe denies them the full benefits of social security cost-of-living increases. With the inception of the one-variable program as contemplated by this act, the veteran or surviving spouse who receives a social security cost-of-living increase will have the congressionally established level of need automatically adjusted by changes in the cost of living. Thus the Committee is informed, no veteran or widow under the new system will have their pension reduced because of social security cost-of-living increases. By having this increase occur automatically there will no longer be a lag between the loss of pension income for the veteran and traditional congressional action to "make up" the loss by subsequently adjusting the pension program rates and income limitations. The same result should occur for other income available to pensioners when it is increased by changes in the cost of living. Most major income security programs, for example, are now indexed to the Consumer Price Index including: Social Security, Supplemental Security Income, Federal Employees Retirement, and Railroad Employees Retirement. In addition, many major private retirement programs are now so indexed. New section 3112 is more fully described as follows:

§ 3112. Annual Adjustment of Certain Benefit Rates

This section provides that whenever social security benefits are increased as a result of changes in the Consumer Price Index, that the annual rate of pension (and Dependency and Indemnity Compensation for parents) under the new program as authorized by this bill will be adjusted by a like percentage effective January 1 of the following calendar year. Similarly, those veterans and survivors currently receiving or eligible for pensions who elect, pursuant to section 108 discussed *infra*, to remain under the current rather than the new pension system will be entitled under section 502 to similar percentage increase in both the rates payable and the maximum annual income limitations under that program.

Section 109

Subsection (a) clarifies the period of transition and provides for procedures to govern specific situations arising from the change to the new system. Specific rules apply to the following situations:

(1) claims pending in the VA on September 30, 1976;

(2) claims for a pension filed by a veteran within one year after he becomes totally disabled if he became such prior to October 1, 1976 but filed later than that date; and

(3) claims for a death pension filed within one year after the death of the veteran through whom the claim is made if the veteran died before October 1, 1976 and the claim is filed after that date.

Under this subsection the amount of pension to which the veteran is entitled is calculated by dividing his entitlement between the two programs on the day the switch is made. Thus the entitlement would reflect the old rate until October 1 and the new rate after that date, and his entitlement would reflect the amount of time for which he was eligible prior to October 1 and the amount of time he was eligible after September 30.

Subsection (b) is a general "savings" or "grandfather clause", granting those pensioners on the rolls prior to October 1, 1976, the option of switching to the new program or continuing coverage on the current system. Also, the eligibility of any person receiving a pension pursuant to chapter 15 as per section 9 of the Veterans' Pension Act of 1959, popularly known as "old law" is protected by this measure. If the pensioner is receiving a pension on September 30, 1976, either under the current or "old law" program, he may continue to remain under either program so long as he continues to meet their qualifying criteria.

Subsection (c) would also "grandfather" those whose claims are described in subsection (a) of this section.

Section 110

This section extends benefits of the pension reform bill to certain children. It affords the opportunity to elect benefits under the children program in section 542 of title 38 to children of Civil War veterans (§ 533), children of Indian War veterans (§ 535) and children of Spanish-American War veterans (§ 537). The children involved are no longer children but were classified as "dependent" as a result of physical or mental defects present in the child at the age of eighteen.

Since 1958, the pension rate of $73.13 plus $8.13 for each additional child has not been changed. This class of dependents, assuredly, is in need of some additional benefits. Thus they are given the opportunity to elect under section 542, a maximum entitlement of $100 a month for a single child ($1,200 a year) plus $20 a month ($360 a year) for each additional child.

These entitlements, as described in § 104 *supra*, are reduced by the amount of the dependent's annual income. The dependents are not obligated to elect but if pension is paid pursuant to § 103 of the bill the election is irrevocable.

TITLE II—ADJUSTMENTS IN CURRENT STATUTORY PENSION PROVISIONS

In general, title II of the act would provide an average 8 percent cost-of-living increase in current pension rates and a $300 increase in the maximum annual income limitations for all pensioners effective January 1, 1976. Subsequently on October 1, 1976, the new pension system authorized in title I would replace these provisions except for those pensioners then on the rolls, who elect not to switch to the new system. The rates and income limitations contained in this title applicable to those pensioners not electing to come under the new system would thereafter be adjusted by changes in the Consumer Price Index as provided for in section 502 of this act discussed *infra*.

Section 201

Section (a) amends section 101 of title 38, United States Code, providing general definitions of terms used in that title by adding the term "spouse" to mean wife or husband and the term "surviving spouse" to mean widow or widower.

Section (b) makes a number of technical and conforming amendments to chapter 15 of title 38, United States Code, providing for pensions for non-service-connected disability or death or for service.

Clause 1 makes a technical grammatical amendment to section 503(a).

Clause 2 amends subsection (a) of section 541 by substituting the term "surviving spouse" for widow to eliminate unnecessary gender references.

Clause 3 amends subsection (e) of section 541 by providing that no pension shall be paid to a surviving spouse of a veteran of the Vietnam era unless married to the veteran prior to May 8, 1985. Existing law provides that no pension will be paid unless the surviving spouse was married prior to the expiration of 10 years following termination of the Vietnam era. Inasmuch as the President declared the Vietnam era terminated as of May 8, 1975, a specific date reflecting that 10-year period has been substituted to conform with existing practice for previous periods of war enumerated in that subsection.

Clauses 4 and 5 amend section 542 and 543 respectively to substitute the term "surviving spouse" for widow to eliminate unnecessary gender references.

Clause 6 repeals section 510 authorizing payment of pensions to persons who have served in military, naval forces of the Confederate States of America during the Civil War, and section 531 authorizing payment of pensions to widows of Mexican War veterans. These provisions are now obsolete because there are no longer any living veterans or dependents of the Confederate States of America nor widows of the Mexican War.

Clauses 7, 8, and 9 make further amendments to the subchapter headings, subheadings and catchlines to delete unnecessary gender references.

Clause 10 makes conforming amendments in the table of sections at the beginning of chapter 15 to reflect the deletion of sections 510 and 531 and the removal of unnecessary gender references.

Section 202

Would provide effective January 1, 1976, an average 8-percent increase in the rates of pension and a $300 increase in the maximum annual income limitation for eligible veterans under section 521.

Clause 1 amends subsection (b) of section 521 prescribing pension rates for unmarried veterans. Currently, a veteran with no dependents and with an annual countable income of $300 or less receives a maximum monthly pension of $160 which is gradually reduced to $5 subject to a limitation on annual countable income of $3,000. As amended, this section which also substitutes a more readable table of payments for the current written formula would provide that a veteran with no dependents and an annual countable income of $3,300. *Clause 1* also amends maximum monthly rate of $173 reduced to $5 subject to a limitation on annual countable income of $3,000. *Clause 1* also amends subsection (c) of section 521 prescribing rates for veterans with dependents. Currently, the maximum monthly pension payable to a veteran with annual countable income of $500 or less and with one dependent is $172, for two dependents $177 and with three or more dependents $182. This decreases gradually to the minimum monthly payment of $14, $19, and $24, respectively, until the veteran's annual countable income reaches $4,200 whereupon he would be ineligible for a pension. As amended subsection (e) would provide a veteran with one dependent $186, with two dependents $191, and with three dependents $196, based on income of $500 or less, ranging downward to a minimum monthly payment of $5 and limited by a maximum annual countable income of $4,500.

Clause 2 amends section 521(d) which authorizes additional allowances payable to veterans receiving pensions who are in need of regular aid and attendance by increasing the monthly rate from $123 to $133.

Clause 3 amends section 521(d) which au-

thorizes additional allowances payable to those veterans receiving pension who do not qualify for aid and attendance but who are permanently housebound by increasing the monthly allowance from $49 to $53.

Clause 4 amends clause 1 of section 521(f) by providing a limitation on the spouse's earned income. In determining veteran's income for pension purposes under current law $1,200 of a spouse's income or the total earned income of the spouse is excluded, whichever is greater. The Veterans' Administration has testified that this has caused some inequities in the program where some veterans qualified and received a "need-based" pension even though their spouse has annual earned income in excess of $25,000. This subsection as amended would exclude $1,200 of income or up to $7,000 of earned income whichever is greater, unless in the judgment of the Administration to do so would work a hardship upon the veteran.

Section 203

Would provide, effective January 1, 1976, an average 8-percent increase in the rates of pension and a $300 increase in the maximum annual income limitation for eligible surviving spouses of veterans under section 541 of title 38, United States Code.

Clause 1 amends subsection (b) of section 541 prescribing pension rates for surviving spouses with no dependents. Currently, a widow with no dependents and with an annual countable income of $300 or less receives a maximum monthly pension of $108 which is gradually reduced to a minimum monthly payment of $5 subject to a limitation on annual countable income of $3,000. As amended, this section which also substitutes a more readable table of payments for the current written formula, would provide that a surviving spouse with no dependents and an annual countable income of $300 or less would receive a minimum monthly pension of $117 reduced to $5 subject to a limitation on annual countable income of $3,000. *Clause 1* also amends subsection (c) of section 541 prescribing rates for surviving spouses with dependents. Currently, the maximum monthly pension to a surviving spouse with an annual countable income of $700 or less with one dependent is $128 which decreases gradually to a minimum monthly payment of $49 and is limited by annual countable income of $4,200.

Clause 2 amends subsection (d) of section 541 providing additional payments for dependents in excess of one by increasing the monthly pension for each additional child from $20 to $22.

Section 204

Would provide, effective January 1, 1976, an average 8-percent increase in the rates of pension and a $300 increase in the maximum annual income limitation for eligible children where there is no surviving spouse.

Clause 1 amends subsection (a) of section 542 which currently provides for payment of pension at a monthly rate of $40 for one child and $20 for each additional child. As amended, this section would provide for respective rates of $53 and $22.

Clause 2 would amend the eligible child's maximum annual income limitation from $2,400 to $2,700.

Section 205

Provides, effective January 1, 1976, an 8-percent increase from $64 to $69 for any widow entitled to additional monthly allowances for aid and attendance.

Section 206

Would make a number of technical and conforming amendments to chapter 15 of title 38 United States Code, to eliminate unnecessary or unwarranted gender references.

TITLE III—REFORM OF DEPENDENCY AND INDEMNITY COMPENSATION FOR DEPENDENT PARENTS

Section 301

This section would provide a new reform system of dependency and indemnity compensation (DIC) for dependent parents under section 415 of title 38, United States Code. DIC payment is based upon the same standard of need as the system for dependent parents for veterans and survivors. The reform system for dependent parents established here is consistent with that provided in title I of this bill for veterans and survivors.

Clause 1 would amend section 415(b) to provide that a parent without dependents would receive monthly payment of dependency and indemnity compensation (DIC) at an annual rate of $2,700 reduced by the amount of the parent's annual income. Currently, monthly rates range from $123 a month ($1,476 per annum) to $4 a month ($48 per annum) subject to an annual income limitation of $3,000. Under the proposed reform a single parent without dependents could receive a monthly DIC payment of $225.

Clause 2 amends section 415(b)(2) to avoid inappropriate gender references.

Clause 3 amends section 415(c) to provide that where two parents are not living together each would be entitled to receive a monthly payment of dependency and indemnity compensation (DIC) at an annual rate of $2,700 reduced, in the case of each parent, by that parent's annual income. Currently, monthly rates for each parent range from $86 ($1,032 per annum) to $4 ($48 per annum) subject to an annual income limitation of $3,000. Under the proposed reform the maximum monthly DIC payment would be $225.

Clause 3 would also amend section 415(d) to provide that two parents who are living together, or a parent who has remarried and is living with his spouse, would, for each couple, receive a monthly payment of dependency and indemnity compensation (DIC) at an annual rate of $3,900 reduced by the amount of that couple's annual income. Currently, monthly rates range from $83 ($996 per annum) to $4 ($48 per annum) subject to an annual income limitation of $3,000. Under the proposed reform, the maximum monthly DIC payments would be increased to $325.

Clause 4 would amend section 415(g) to eliminate and alter the allowable exclusions in computing annual income for the purpose of determining dependency and indemnity compensation for parents. Only six exclusions are retained, one existing exclusion is modified and one is added. This amendment is consistent with the amendments proposed for the pension program for veterans and survivors in section 102 of this bill. Thus, section 301 attempts to align more closely the pensioner's need with the pension rate allocated.

Certain exclusions which represent unusual situations and which do not conflict with the pension premise would be permitted. For example, proceeds of fire insurance policies would not be included as income inasmuch as the event which precipitated the payments is neither an annual event nor an income accrual mechanism. Other examples include amounts equal to unreimbursed expenses for burial of the veteran, an amount equal to the expenses of a veteran's last illness, and profits realized from the disposition of real or personal property other than in the course of business.

The first $780 of earned income would be excluded in the same manner as it is excluded in the pension program for veterans and survivors. The $780 of earned income is applicable only to income not otherwise excluded by section 301 of the bill.

Clause 5 would amend section 415(b) to provide aid and attendance allowance consistent with those provided for veterans under section 103 and for survivors under section 108 of this bill. Parents receiving dependency and indemnity compensation under sections 415 (b) and (c) who are in need of regular aid and attendance would, under this amendment, be entitled to DIC payments based on an annual rate of $4,296 less the amount of the parent's annual income. Parents receiving DIC under section 415(d) and who are in need of regular aid and attendance would, under this amendment, be entitled to DIC payments based on an annual rate of $5,496 less the couple's annual income.

Section 302

Subsection (a) clarifies the period of transition and provides for procedures to govern specific situations arising from the change to the new system. Specific rules apply to the following situations:

(1) claims pending in the VA on September 30, 1976; and

(2) claims for a pension filed by a parent within one year after he becomes totally disabled if he became such prior to October 1, 1976 but filed later than that date.

Under this subsection, the amount of pension to which the parent is entitled is calculated by dividing the parent's entitlement between the two programs on the day the switch is made. Thus, the entitlement would reflect the old rate until October 1 and the new rate after that date.

Subsection (b) is a general "savings" or "grandfather clause", granting those parents in receipt of DIC prior to October 1, 1976 the option of switching to the new program or continuing coverage on the current system.

Subsection (c) would also "grandfather" those whose claims are described in subsection (a) of this section.

TITLE IV—ADJUSTMENTS IN CURRENT STATUTORY PROVISIONS RELATING TO DEPENDENCY AND INDEMNITY COMPENSATION FOR PARENTS

In general, title IV of this act would provide an average 8 percent cost-of-living increase and a $300 increase in the maximum annual income limitations effective January 1, 1976, for those parents receiving need-based dependency and indemnity compensation. Subsequently, on October 1, 1976, the new Dependency and Indemnity Compensation system authorized by title III would replace these provisions except for those parents, then on the rolls, who elect not to switch to the new system. The rates of income limitations contained in this title which are applicable to those pensioners not electing to come under the new system would, thereafter, be automatically adjusted to reflect changes in the Consumer Price Index, as provided for in section 502 of this act discussed *infra*.

Section 401

Clause 1 would redesignate current paragraph 2 of subsection (b) as paragraph 4.

Clause 2 would increase the rates of dependency and indemnity compensation (DIC) and annual income limitation for a sole surviving parent receiving dependency and indemnity compensation under section 415(b).

Currently, a sole surviving parent receives a maximum monthly DIC payment of $123 if his annual countable income is less than $800, decreasing to $4 subject to a limitation on annual countable income of $3,000. As amended, this section, which also substitutes a more readable table of payments

for the current written formula, would provide for a maximum monthly payment of $133 with an annual income of $800 or less, down to $4 and limited by an annual income of $3,300.

Clause 3 would increase the rates of dependency and indemnity compensation (DIC) and the annual income limitation for two parents not living together but receiving DIC under section 415(c). Currently, each of two parents who are not living together receives a maximum monthly DIC payment of $86 if annual countable income is $800 or less, decreasing on a graduated scale to $4 subject to a limitation on annual countable income of $3,000. As amended, this section would provide a maximum monthly rate of $93 with an annual income of $800 or less, down to $5 subject to a limitation on annual income of $3,300. *Clause 3* would also increase the rates of dependency and indemnity compensation (DIC) and the annual income limitation for parents receiving DIC under section 415(d). Currently, if there are two parents who are living together or if a parent is remarried and is living with his spouse, each parent receives a maximum monthly DIC payment of $83 if their annual countable income is $1,000 or less, decreasing gradually to $4 subject to a limitation on annual countable income of $4,200. As amended, this section would provide a maximum monthly payment of $93 with an annual income of $1,000 or less, down to $5 for an annual income of $4,500.

Clause 4 would increase the allowance payable under section 415(h) to parents in receipt of DIC who are in need of aid and attendance. Currently, this additional allowance is $64 per month. As amended, it would be increased to $69.

TITLE V—MISCELLANEOUS AND EFFECTIVE DATE PROVISIONS

Section 501

Subsection (a) This section would amend section 4 of Public Law 90–275 (82 Stat. 68) to increase the maximum annual income limitations applicable under the "old law" pension plan by $300. A veteran or surviving spouse without a dependent, or a child alone, would remain eligible for pension with a maximum countable annual income of up to $2,900 a year as contrasted with the current $2,600 limitation. A veteran with a dependent or a surviving spouse with a child would remain eligible for pension with a maximum countable annual income of up to $4,200 as opposed to the current maximum of $3,900.

Subsection (b) provides for annual adjustment of the maximum annual income limitation for those veterans receiving pensions under section 9(b) of Public Law 90–275 (82 Stat. 68) who elect not to switch to the new program created by title I. The income limitations in effect shall be raised annually by the same percentages by which such benefits payable under title II of the Social Security Act are increased.

Section 502

Provides for annual adjustment of benefit rates and the maximum annual income limitations for those veterans and survivors who elect to remain under the current system as authorized by titles II and IV rather than switch to the new program created by titles I and III.

This is consistent with the administration's draft bill submitted in 1973 which proposed that veterans and widows under the current system should receive "automatic cost-of-living increases to the same extent as authorized under section 215 of the Social Security Act as a cost-of-living increase for social security recipients".

Accordingly, this subsection provides that whenever social security benefits are increased as a result of changes in the Consumer Price Index, that the benefit rates and the maximum annual income limitations for pensioners (and dependency and indemnity compensation for parents) will be adjusted by a like percentage effective January 1 of the following year.

The administration also proposed this in their 1973 draft legislation. The Administrator is empowered to round the income limitations as increased as he deems appropriate in light of the need for administrative ease.

Section 503

Except as provided in sections 202, 203, 204, 205, 206, 401, and 501, this Act takes effect on October 1, 1976. The excluded provisions are those which cover the pension program during the interim period of January 1, 1976–October 1, 1976.

Mr. HARTKE. Mr. President, subsequent to the filing of the committee report to S. 2635, we received additional information from the Congressional Budget Office. I ask unanimous consent that the material be inserted in the RECORD at this point.

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

CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., December 10, 1975.

HON. VANCE HARTKE,
Chairman, Committee on Veterans' Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office prepared a cost estimate for S. 2635, a bill to amend Title 38, U.S. Code, to modify the pension program for veterans and their dependents. This cost estimate was sent to you on December 9, 1975. Today I am transmitting the CBO's revised cost estimate for your consideration.

Should the Committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

ALICE M. RIVLIN,
Director.

Attachment.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE—REVISED

1. Bill No.: S. 2635.

2. Bill Title: Veterans Survivors and Pension Reform Act.

3. Purpose of Bill:

The bill amends Title 38, U.S. Code, to modify the pension program for veterans and their dependents. The program establishes a minimum level of income of $2,700 for single pensioners and $3,900 for pensioners with dependents, beginning in FY 1977. Titles II and IV of the bill provide an inflation-based 8 percent increase in pension rates between January 1976 and the beginning of FY 1977. The bill also indexes future pension levels to the rate increases in social security retirement payments.

4. Budget Impact: (millions of dollars).

	Fiscal year	Transition quarter	Fiscal year— 1977	1978	1979	1980
Budget authority	110	55	986	1,203	1,423	1,597
Outlays	110	55	986	1,203	1,423	1,597
(Offsets)[1]			(128)	(169)	(211)	(238)
Net outlays			858	1,034	1,212	1,359

[1] Represents offsets to outlays for supplemental security income, food stamps, and aid to families with dependent children programs.

5. Basis for Estimate:

FY 76 and T.Q. estimates reflect the direct 8 percent interim increase in pension benefit levels. FY 77 estimate was developed by calculating the actual difference in pension payment resulting from reform for each income category. Numbers of pensioners in each income category were derived from the 1974 annual income survey of pensioners. The resulting costs are inflated using CBO estimates of increases in social security benefit levels for each of the years estimated. Offsets to other income security programs are calculated by measuring the dollar increase in benefits attributable to the increased pension levels. The resulting maximum potential offset to program outlays was reduced by 50 percent for SSI and AFDC programs and 75 percent in the Food Stamps program based on available evidence concerning participation rates in these programs.

6. Estimate Comparison: (millions of dollars)—

	Fiscal year— 1977	1978	1979	1980
VA estimate	816	1,165	1,318	1,381
CBO estimate	986	1,203	1,423	1,597

The estimates by the Veterans Administration and the CBO are reasonably consistent both in terms of methodology and results. The differences that do exist are primarily attributable to a more conservative set of assumptions used by CBO. The CBO estimate assumes that there would be a 100 percent participation in the reform program by those who benefit, while the VA assumes a somewhat lower participation. CBO's estimate also assumes a high inflation rate. These two assumptions account for the bulk of the difference between the estimates. Another, though smaller, portion of the difference is attributable to the CBO's more conservative assumption on the growth in income other than social security and veterans' pensions. This still leaves a modest difference between the two estimates, approximately 7 percent, which probably represents a reasonable range of cost uncertainty for a major legislative change.

7. Previous CBO Estimate: December 9, 1975.

8. Estimate prepared by: Michael Gutowski (255–4972) Roger Faxon (225–4972).

9. Estimate approved by: James L. Blum, Assistant Director, Budget Analysis Division.

Mr. HARTKE. Mr. President, I want to emphasize that what we propose today, namely, insuring that all eligible veterans and widows receive a level of support that places them above the poverty level, is a quite modest goal. Higher levels of support have been urged upon the committee which are not without merit. Veterans' organizations such as the American Legion and the Veterans

of Foreign Wars, have urged support levels of $3,300 for a pensioner without dependents, and $5,500 for those with dependents. Such support levels would result in new mandatory expenditures of $2.8 billion in the first year alone, however. Given the state of the economy, budgetary realities, and the position of the administration, it is clear that such levels could not be achieved this year. At the same time, I believe it important to emphasize that we have a strong obligation to our Nation's veterans to insure that they are able to live out their lives in dignity. Establishing levels of support just above the poverty level, provides only the most minimum sense of dignity. I believe it will be incumbent upon Congress to continually reexamine support levels we establish for veterans and their survivors to insure within the context of existing budgetary resources that our national policy objectives are being fully achieved.

Veterans' groups, of course, are accustomed to the necessity of viewing and balancing veteran program increases within the context of the overall Federal budget. Further, such groups understand, perhaps better than anyone else, the need for providing a rational cost-effective system that insures that available tax dollars are applied to those who need it and in proportion to their needs. With millions of veterans approaching the age of 65, it is essential that we have a system that will be responsive to their needs and which can be defended against the attacks of those who would abolish veterans' pensions altogether. Unfortunately, I believe that there are those within and without the Government who if they could would totally eliminate veterans' pensions.

Thus, failure to act promptly will make the system more vulnerable to attack from hostile quarters and result in Federal expenditures that become increasingly illogical and difficult to defend. Veterans organizations recognize this and want to assure as I do that our Nation never forgets its special debt and continued obligation to those who risked their lives to defend their country. They recognize that we need an equitable, workable pension program that meets national objectives. And they are all too painfully aware of the failings of our current pension system, for it is they who are in regular contact with veterans and widows who must try to survive with dignity on a meager income. Mr. President, I believe that S. 2635 will serve as a strong cornerstone for an effective, continuing veterans pension program. I urge my colleagues to support it.

Mr. President, many people worked long hours to aid in the development of legislation before the Senate today. In particular, I want to commend the staff members of this committee, including Guy McMichael, Jack Wickes, Harold Carter, and Glorida Lawler, for their valuable assistance. To this list should be also added former staff member Mary Whalen who during the past 2 years developed much of the information needed by the committee to proceed in its consideration of pension restructuring.

The committee also received considerable assistance from the Library of Congress. In this connection, I want to single out William Robinson, Martha Proskauer, and Ilona Rashkow for their timely responses to committee inquiries.

Finally, I want to express my gratitude to the numerous individuals at the Veterans' Administration who provided technical assistance to the committee during its consideration of pension restructuring. In particular, I would be remiss if I did not mention Charles Peckarsky, Arthur Carley, Herbert Mars, Norman Paulson, and Kathleen Shepherd, for the high quality of the technical asistance that they rendered to the committee.

Mr. President, the bill has been agreed to on both sides. It has unanimous support of the Committee on Veterans' Affairs.

Mr. HANSEN. Mr. President, I rise in support of S. 2635, the Veterans and Survivors Pension Reform Act of 1975.

One of the most perplexing problems which we have faced on the Veterans' Affairs Committee involves the reduction of pensions when social security benefits increase. I am hopeful that the approach embodied in this bill will keep veterans who draw pensions from being adversely affected every time a social security increase goes into effect.

Under this pending bill, all veterans and dependents who are now eligible for the veterans' pension program will receive an 8-percent increase in their benefits and a $300 increase in the maximum annual income limitations. This will take effect on January 1. Otherwise, over 400,000 veterans or their survivors would be thrown off the pension rolls.

On October 1 next year, all new pensioners would qualify under the reform embodied in the legislation before us. Furthermore, current pensioners may elect to continue to participate under the current program or under the new program.

Mr. President, I think this bill is worthy of our consideration and enactment, and I urge my colleagues to join me in supporting it.

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

The committee amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

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

The PRESIDING OFFICER. The question is, Shall the bill pass?

The bill (S. 2635) was passed.

Mr. HARTKE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, for the information of the Senate, the remaining business for this evening is a conference report to be offered by the distinguished Senator from Wisconsin (Mr. PROXMIRE), the supplemental appropriation conference report to be offered by the distinguished Senator from Arkansas, on which I ask unanimous consent there be a time limitation of 10 minutes to be equally divided between the Senator from Arkansas (Mr. McCLELLAN) and the Senator from Massachusetts (Mr. BROOKE).

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, it is hoped after that is concluded to be followed with a resolution by the distinguished Senator from Florida (Mr. STONE).

As of now it is not anticipated that there will be any rollcall votes. I cannot guarantee it absolutely, but the chances are about 99 to 1.

HOME MORTGAGE DISCLOSURE ACT—CONFERENCE REPORT

Mr. PROXMIRE. Mr. President, I submit a report of the committee of conference on S. 1281, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. CHILES). The report will be stated by title.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1281) to improve public understanding of the role of depository institutions in home financing, 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, as follows:

CONFERENCE REPORT (S. REPT. No. 94-553)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1281) to improve public understanding of the role of depository institutions in home financing, 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:

TITLE I—REGULATION OF INTEREST RATES

SEC. 101. Section 7 of the Act of September 21, 1966 (Public Law 89-597), is amended by striking out "December 31, 1975" and inserting in lieu thereof "March 1, 1977".

SEC. 102. (a) An interest rate differential for any category of deposits or accounts which is in effect on December 10, 1975, between (1) any bank (other than a savings bank) the deposits of which are insured by the Federal Deposit Insurance Corporation and (2) any savings and loan, building and loan, or homestead association (including cooperative banks) the deposits or accounts

of which are insured by the Federal Savings and Loan Insurance Corporation or any mutual savings bank as defined in section 3 (f) of the Federal Deposit Insurance Act (12 U.S.C. 1813(j)) may not be eliminated or reduced unless—

(A) written notification is given by the Board of Governors of the Federal Reserve System to the Congress; and

(B) the House of Representatives and the Senate approve, by concurrent resolution, the proposed elimination or reduction of the interest rate differential.

(b) In the case of the elimination or reduction of any interest rate differential under subsection (a) with respect to any category of deposits or accounts between (1) any bank (other than a savings bank) the deposits of which are insured by the Federal Deposit Insurance Corporation and (2) any savings and loan, building and loan, or homestead association (including cooperative banks) the deposits or accounts of which are insured by the Federal Savings and Loan Insurance Corporation or any mutual savings bank as defined in section 3(f) of the Federal Deposit Insurance Act (12 U.S.C. 1813 (f)), the maximum rate of interest which shall be established for such category of deposits for banks (other than savings banks) the deposits of which are insured by the Federal Deposit Insurance Corporation shall be equal to the highest rate of interest which savings and loan associations the deposits or accounts of which are insured by the Federal Savings and Loan Insurance Corporation were permitted to charge for such category of deposits immediately prior to the elimination or reduction of such interest rate differential.

TITLE II—ELECTRONIC FUND TRANSFERS

SEC. 201. Section 203(b) of title II of the Act of October 28, 1974 (Public Law 93-495), is amended by—

(1) striking out "within one year of its findings and recommendations" and inserting in lieu thereof "within one year of the date of the confirmation by the Senate of the Chairperson or the appointment by the President of an acting Chairperson"; and

(2) striking out "not later than two years after the date of enactment of this Act" and inserting in lieu thereof not later than two years after the date of the confirmation by the Senate of the Chairperson or the appointment by the President of an acting Chairperson".

TITLE III—HOME MORTGAGE DISCLOSURE

SHORT TITLE

SEC. 301. This title may be cited as the "Home Mortgage Disclosure Act of 1975".

FINDINGS AND PURPOSES

SEC. 302. (a) The Congress finds that some depository institutions have sometimes contributed to the decline of certain geographic areas by their failure pursuant to their chartering responsibilities to provide adequate home financing to qualified applicants on reasonable terms and conditions.

(b) The purpose of this title is to provide the citizens and public officials of the United States with sufficient information to enable them to determine whether depository institutions are filling their obligations to serve the housing needs of the communities and neighborhoods in which they are located and to assist public officials in their determination of the distribution of public sector investments in a manner designed to improve the private investment environment.

(c) Nothing in this title is intended to, nor shall it be construed to, encourage unsound lending practices or the allocation of credit.

DEFINITIONS

SEC. 303. For purposes of this title—

(1) the term "mortgage loan" means a loan which is secured by residential real property or a home improvement loan;

(2) the term "depository institution" means any commercial bank, savings bank, savings and loan association, building and loan association, or homestead association (including cooperative banks) or credit union which makes federally related mortgage loans as determined by the Board;

(3) the term "Board" means the Board of Governors of the Federal Reserve System; and

(4) the term "Secretary" means the Secretary of Housing and Urban Development.

MAINTENANCE OF RECORDS AND PUBLIC DISCLOSURE

SEC. 304. (a)(1) Each depository institution which has a home office or branch office located within a standard metropolitan statistical area, as defined by the Office of Management and Budget shall compile and make available, in accordance with regulations of the Board, to the public for inspection and copying at the home office, and at least one branch office within each standard metropolitan statistical area in which the depository institution has an office the number and total dollar amount of mortgage loans which were (A) originated, or (B) purchased by that institution during each fiscal year (beginning with the last full fiscal year of that institution which immediately preceded the effective date of this title).

(2) The information required to be maintained and made available under paragraph (1) shall also be itemized in order to clearly and conspicuously disclose the following:

(A) The number and dollar amount for each item referred to in paragraph (1), by census tracts, where readily available at a reasonable cost, as determined by the Board, otherwise by ZIP code, for borrowers, under mortgage loans secured by property located within that standard metropolitan statistical area.

(B) The number and dollar amount for each item referred to in paragraph (1) for all such mortgage loans which are secured by property located outside that standard metropolitan statistical area.

For the purpose of this paragraph, a depository institution which maintains offices in more than one standard metropolitan statistical area shall be required to make the information required by this paragraph available at any such office only to the extent that such information relates to mortgage loans which were originated or purchased by an office of that depository institution located in the standard metropolitan statistical area in which the office making such information available is located.

(b) Any item of information relating to mortgage loans required to be maintained under subsection (a) shall be further itemized in order to disclose for each such item—

(1) the number and dollar amount of mortgage loans which are insured under title II of the National Housing Act or under title V of the Housing Act of 1949 or which are guaranteed under chapter 37 of title 38, United States Code;

(2) the number and dollar amount of mortgage loans made to mortgagors who did not, at the time of execution of the mortgage, intend to reside in the property securing the mortgage loan; and

(3) the number and dollar amount of home improvement loans.

(c) Any information required to be compiled and made available under this section shall be maintained and made available for a period of five years after the close of the first year during which such information is required to be maintained and made available.

ENFORCEMENT

SEC. 305. (a) The Board shall prescribe such regulations as may be necessary to carry out the purposes of this title. These regulations may contain such classifications, differentiations, or other provisions, and may provide for such adjustments and exceptions for any class of transactions, as in the judgment of the Board are necessary and proper to effectuate the purposes of this title, and prevent circumvention or evasion thereof, or to facilitate compliance therewith.

(b) Compliance with the requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act, in the case of—

(A) national banks, by the Comptroller of the Currency;

(B) member banks of the Federal Reserve System, other than national banks, by the Board;

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and mutual savings banks as defined in section 3(f) of the Federal Deposit Insurance Act (12 U.S.C. 1813(f)) and any other depository institution not referred to in this paragraph or paragraph (2) or (3) of this subsection, by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 5(d) of the Home Owners' Loan Act of 1933, section 407 of the National Housing Act, and sections 6(i) and 17 of the Federal Home Loan Bank Act, by the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation), in the case of any institution subject to any of those provisions; and

(3) the Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any credit union.

(c) For the purpose of the exercise by any agency referred to in subsection (b) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (b), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law.

RELATION TO STATE LAWS

SEC. 306. (a) This title does not annul, alter, or affect, or exempt any State chartered depository institution subject to the provisions of this title from complying with the laws of any State or subdivision thereof with respect to public disclosure and recordkeeping by depositor institutions, except to the extent that those laws are inconsistent with any provision of this title, and then only to the extent of the inconsistency. The Board is authorized to determine whether such inconsistencies exist. The Board may not determine that any such law is inconsistent with any provision of this title if the Board determines that such law requires the maintenance of records with greater geographic or other detail than is required under this title, or that such law otherwise provides greater disclosure than is required under this title.

(b) The Board may by regulation exempt from the requirements of this title any State chartered depository institution within any State or subdivision thereof if it determines that, under the law of such State or subdivision, that institution is subject to requirements substantially similar to those imposed under this title, and that such law contains adequate provisions for enforcement. Notwithstanding any other provision of this subsection, compliance with the requirements imposed under this subsection shall be enforced under—

(1) Section 8 of the Federal Deposit Insurance Act in the case of national banks, by the Comptroller of the Currency; and

(2) Section 5(d) of the Home Owners' Loan Act of 1933 in the case of any institu-

tion subject to that provision, by the Federal Home Loan Bank Board.

RESEARCH AND IMPROVED METHODS

SEC. 307. (a) (1) The Federal Home Loan Bank Board, with the assistance of the Secretary, the Director of the Bureau of the Census, the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and such other persons as the Federal Home Loan Bank Board deems appropriate, shall develop, or assist in the improvement of, methods of matching addresses and census tracts to facilitate compliance by depository institutions in as economical a manner as possible with the requirements of this title.

(2) There is authorized to be appropriated such sums as may be necessary to carry out this subsection.

(3) The Federal Home Loan Bank Board is authorized to utilize, contract with, act through, or compensate any person or agency in order to carry out this subsection.

(b) The Federal Home Loan Bank Board shall recommend to the Committee on Banking, Currency and Housing of the House of Representatives and the Committee on Banking, Housing and Urban Affairs of the Senate such additional legislation as the Federal Home Loan Bank Board deems appropriate to carry out the purpose of this title.

STUDY

SEC. 308. (a) The Board, in consultation with the Secretary of Housing and Urban Development, is authorized and directed to carry out a study to determine the feasibility and usefulness of requiring depository institutions located outside standard metropolitan statistical areas, as defined by the Office of Management and Budget, to make disclosures comparable to those required by this title.

(b) A report on the study under this section shall be transmitted to the Congress not later than three years after the date of enactment of this title.

EFFECTIVE DATE

SEC. 309. This title shall take effect on the one hundred and eightieth day beginning after the date of its enactment. Any depository institution which has total assets as of its last full fiscal year of $10,000,000 or less is exempt from the provisions of this title.

TERMINATION OF AUTHORITY

SEC. 310. The authority granted by this title shall expire four years after its effective date.

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 bill, and agree to the same.

WILLIAM PROXMIRE,
JOHN SPARKMAN,
HARRISON WILLIAMS,
T. J. MCINTYRE,
ALAN CRANSTON,
EDWARD W. BROOKE,
BOB PACKWOOD,
Managers on the Part of the Senate.

H. REUSS,
FERNAND J. ST GERMAIN,
FRANK ANNUNZIO,
W. A. BARRETT,
JERRY M. PATTERSON,
Managers on the Part of the House.

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. 1281) to improve public understanding of the role of depository institutions in home financing, 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 amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill. The House amendment, the Senate bill and the substitute agreed to in conference are noted below except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I

The House amendment provided for an extension of Regulation Q until December 31, 1977. The term "Regulation Q" refers to the authority by which the various Federal financial regulatory agencies set interest rate ceiling on deposits in financial institutions under their respective jurisdictions. The Senate bill had no provision. The Senate receded to the House with an amendment providing for an extension of Regulation Q until March 1, 1977.

The House amendment provided that an interest rate differential of not less than one-quarter of one percent be maintained in favor of deposits in thrift institutions. The amendment further provided that the Federal financial regulatory agencies take no action to eliminate or lessen any such differential in existence on the date of enactment except that such differential may, upon a finding of competitive disadvantage, be lessened or eliminated for selected geographic areas and by category of accounts.

The Senate bill had no provision. The House receded to the Senate.

The House amendment provided that there could be no lessening or eliminating of the differential by the regulatory agencies upon a finding of competitive disadvantage unless 45-day prior notification be given by the Board of Governors of the Federal Reserve System to the respective Banking Committees of both the House and the Senate and that neither Committee, within such 45-day period, disapprove by resolution the proposed elimination or lessening of the differential.

The Senate bill contained no provision. The Senate receded to the House with an amendment that any lessening or elimination of the differential proposed by the Federal financial regulatory agencies could take effect only upon the adoption of a concurrent resolution by both the Senate and the House of Representatives approving such proposal. The Conferees intend that this provision shall in no way restrict the present authority of the Federal financial regulatory agencies to increase deposit rate ceilings under Regulation Q as appropriate.

The House amendment provided that in any case where the differential is lessened or eliminated with regard to any category of account, the rate payable by all depository institutions on such category of account shall be the highest rate permitted under Regulation Q for that category of account.

The House amendment provided that for the period during which Regulation Q is extended under this Act, the Federal financial regulatory agencies shall study the impact of expanded lending and investment powers authorized for State-chartered thrift institutions on the housing portfolios of such institutions with special emphasis upon possible disintermediation effects.

The Senate bill had no provision. The House receded to the Senate.

TITLE II

The House amendment provided that the interim and final reports of the National Commission on Electronic Fund Transfers be submitted within one and two years, respectively, from the date of the confirmation by the Senate of the Chairperson. The Senate had no provision. The Senate receded to the House.

The House amendment further required an additional report to be submitted to the respective House and Senate Banking Committees within six months after enactment. The Senate bill had no provision. The House receded to the Senate.

TITLE III

Findings and purpose

The House amendment contains a finding that depository institutions have sometimes contributed to the decline of certain geographic areas by failing to provide home mortgage financing on reasonable terms to qualified applicants. The Senate provision is somewhat narrower and implies a connection between neighborhoods from which deposits are received and neighborhoods to which loans are made. The conference report contains the House provision.

The House amendment provides that the purpose is to enable citizens to determine whether depository institutions are fulfilling their obligations to serve housing credit needs of the affected areas and to help public officials determine public sector investments. The Senate provision contains broader language indicating an obligation by lenders to serve the housing needs of their communities. The conference report adopts the Senate provision, and also incorporates the House language indicating an additional purpose to assist public officials in their determination of public sector investments.

The House amendment contains a provision not included by the Senate that nothing in this title shall be construed to encourage unsound lending practices or the allocation of credit. The legislative history indicates a similar intent on the part of the Senate. The conference report adopts the House provision.

DEFINITIONS

The House amendment defines a mortgage loan as a loan secured by residential real property, or a home improvement loan. The Senate definition includes only "Federally related" mortgage loans other than temporary financing as defined under Section 3 of the Real Estate Settlement Procedures Act of 1974. The conference report adopts the broader house provision, which will provide information on multiple as well as single family mortgage loans, and also home improvement loans.

The House and Senate both included within the definition of a depository institution a bank, a savings bank, or a savings and loan association. The Senate bill also included credit unions; the House amendment added homestead associations (including cooperative banks). The House receded to the Senate provision with an amendment, to include homestead associations (including cooperative banks).

The conference report includes the House provision defining "Board" as the Board of Governors of the Federal Reserve, and "Secretary" as the Secretary of Housing and Urban Development. There was no comparable Senate provision.

Maintenance of public records and public disclosure

The Senate bill required information to be available for inspection at every branch of an institution located within a standard metropolitan Federally related mortgage loans. In addition to mutual savings banks, this includes non-Federally insured savings and loan associations. The conference report includes the Senate provision extending coverage to all non-Federally insured institutions, but adopts the House provision specifying that in the case of such institutions compliance shall be enforced by the FDIC.

The Conference Report includes a provision in the Senate bill but not in the House amendment providing that the National Credit Union Administration shall enforce compliance in the case of credit unions.

Relation to State laws

The Senate bill provided that this legislation does not exempt any "person" otherwise subject to state or local laws regarding recordkeeping and disclosure by depository institutions except to the extent of inconsistency with the provisions of this Act, and then only to the extent of the inconsistency, with the provision that the Board shall determine whether such inconsistencies exist. The Senate's intent was to subject all depository institutions in a jurisdiction to the same mortgage disclosure law, whether State or Federal, depending on which offered a greater degree of disclosure of mortgage information.

The House amendment provided an identical process for determining the inconsistency between state and Federal law, but limited the optional exemption from this Act to state chartered institutions. Under the House language, a state-chartered institution could be granted an exemption from this Act if the Board determined that the law of the state or subdivision afforded equal or greater disclosure, but in no case could a federally chartered institution be granted an exemption from this Act. The intent of the House provision is that in the area of public disclosure of mortgage lending statistics, this Act shall apply to all depository institutions unless an exemption is granted by the Board, in which case state-chartered institutions would be subject to the state or local law to the extent of the exemption, but Federally chartered institutions would continue to follow the requirements of this Act. The conferees understand that for the purposes of exemption authority granted to the Board, the term state law shall include State regulations which carry the force of law.

The Senate conferees regard the House provision concerning Federal pre-emption as an exception to the pre-emption provisions of other consumer finance laws, including the Truth in Lending and the Fair Credit Billing Acts, which contain provisions similar to the Senate provisions of S. 1281.

In the case of mortgage disclosure, however, the conferees on the part of the House strongly believe that subjecting a Federally chartered institution to state law would threaten the dual banking system.

With the understanding that this provision goes only to the narrow area of geographical disclosure of mortgage lending statistics, the Senate conferees agreed to the House provision, which is included in the conference report.

Studies

Both versions provided for a number of studies. The Conference Report included the Senate provision for a study to be carried out by the Federal Reserve Board to determine the feasibility and usefulness of requiring depository institutions located outside metropolitan areas to be subject to the requirements of this Act.

The Conference report also includes provisions contained in the House amendment, requiring the concerned Federal regulatory agencies to work with the Census Bureau to develop methods of matching addresses with census tracts to facilitate compliance with this Act, and requiring the Federal Home Loan Bank Board to recommend to the Banking committees of the Congress such additional legislation deemed appropriate.

The State provision requiring such studies to be transmitted to the Congress within three years of enactment was included in the conference report.

Exemption

The House amendment contained exemptions not included in the Senate bill, exempting institutions with total assets of $25,000,000 or less from compliance for 15 months, and exempting institutions with assets of $10,000,000 or less for the life of the Act. The conference report includes the exemption for institutions with assets of $10,000,000 or less.

Effective date

The Senate bill provided an effective date 90 days after enactment. The House amendment provided for 180 days. The Conference report provides that the Act shall take effect 180 days after enactment.

WILLIAM PROXMIRE,
JOHN SPARKMAN,
HARRISON WILLIAMS,
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ALAN CRANSTON,
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Managers on the Part of the Senate.

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FRANK ANNUNZIO,
W. A. BARRETT,
JERRY M. PATTERSON,
Managers on the Part of the House.

Mr. PROXMIRE. Mr. President, title III of this legislation was passed by the Senate last September 4 as the Home Mortgage Disclosure Act. That measure requires financial institutions to disclose by geographic area the number and dollar amount of home mortgage loans. The intent here is that citizens and public officials will be more successful in discouraging the practice of "red-lining" or the refusal to lend mortgage money in older urban neighborhoods if they are armed with the facts. As the Banking Committee found during extensive hearings, mortgage disinvestment in urban neighborhoods is a serious problem that requires a remedy. Disclosure is the least painful remedy I am aware of. It does not require that a lender favor certain areas, or depart from sound lending criteria: only that the depositors and the community be informed of the facts.

Mr. President, the House and Senate versions of this legislation were quite similar. As the conference report indicates, the conferees have adopted the House language providing that the compilation and reporting of mortgage data shall be by census tract where feasible, and otherwise by U.S. postal ZIP code. The concern here had been that if we simply required universal reporting by census tract this might present a problem in newer areas where census track boundaries were fluid or unclear. But the "where feasible" language, to be determined by the Federal Reserve Board in consultation with the Census Bureau, should take care of that concern.

The conferees also agreed to the House provision regarding Federal preemption, at the recommendation of the regulatory agencies. The bill passed by the Senate provided that in the event that a State enacted its own mortgage disclosure legislation and that legislation provided a greater degree of disclosure than this act, a waiver could be obtained from the Federal law and all depository institutions doing business in that State would comply with State law.

Subsequently, at the suggestion of the Federal Home Loan Bank Board, the House modified that language to provide that federally chartered institutions would always be subject to the Federal law, but that State chartered institutions in States with mortgage disclosure laws could be granted a waiver if the State law provided for equal or greater disclosure. Although it is my belief that in certain areas of consumer legislation it is always useful to let the States serve as laboratories and that we should not preempt more comprehensive State legislation, we did agree to the House provision. We understand, however, that this language applied only to the mortgage disclosure provided in S. 1281, and does not preempt States from taking action to promote reinvestment in other ways.

The conferees included the Senate's provision to require that the Federal Reserve Board undertake a study of the usefulness of extending disclosure requirements to rural lenders. The present act covers only loans made in metropolitan areas. I know that is of interest to the Senator from Iowa, DICK CLARK, who has been extremely concerned about rural credit outflows.

We also included the Senate provision to require that information be retained for a period of 5 years. The conferees accepted the House language adding home improvement loans, and we set a 4-year expiration date, as originally provided by the House.

Mr. President, title I of this legislation had no Senate counterpart. Title I extends regulation Q for a period of 14 months.

Regulation Q, which authorizes a ceiling on interest which may be paid by commercial banks and by thrift institutions has been routinely extended every time the expiration date approaches.

This time, however, the Congress was confronted by two new factors. First, far-reaching comprehensive legislation is pending to broaden the powers of thrift institutions, and if all goes well to end the need for regulation Q after 6 years. That legislation passed this body last week.

The second new factor was a provision in the House bill legislating a mandatory quarter-point differential for the first time. Now, in light of our action to phaseout regulation Q in the context of broad financial reform, the distinguished chairman of the Financial Institutions Subcommittee, Senator MCINTYRE felt very strongly that we had no business going the other way and writing the existing quarter-point differential into law.

I think the compromise the conferees drafted goes a reasonable way toward the House provision, but stops short of a statutory differential. The House extended regulation Q for 2 years. The conference report extends it for 14 months. The House wrote into law a mandatory quarter point differential. The conference report provides that the existing quarter-point differential, which has been in effect since 1973, may not be further reduced without a concurrent congressional resolution of approval. This will have the effect of protecting thrift institutions from capricious action, but it does not write the quarter point differential into law, which would be a poor precedent.

Finally, Mr. President, the conference accepted, with slight modification, title II of the House bill extending the Electronic Funds Transfers Commission for 2 years.

The PRESIDING OFFICER (Mr. STONE). The question is on agreeing to the conference report.

The conference report was agreed to.

SUPPLEMENTAL APPROPRIATIONS, 1976—CONFERENCE REPORT

Mr. McCLELLAN. Mr. President, I submit a report of the committee of conference on H.R. 10647, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. STONE). The report will be stated by title.

The assistant 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. 10647) making supplemental appropriations for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, 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.

(The conference report is printed in the House proceedings of the RECORD of December 12, 1975, at page 40219.)

The PRESIDING OFFICER. Under the order, there are 10 minutes a side on this conference report, 5 minutes for the Senator from Arkansas (Mr. McCLELLAN) and 5 minutes to the Senator from Massachusetts (Mr. BROOKE).

Mr. McCLELLAN. Mr. President, I yield myself as much time as I might require.

Mr. President, the Committee on Conference met on H.R. 10647, the supplemental appropriations bill for fiscal 1976 and the transition period on Thursday, December 11. The report was finalized and filed in the other body on Friday.

Mr. President, a total of 83 numbered amendments were in conference. Of that total the Senate receded on 13, the House receded on 17. A total of 23 amendments were further amended and agreed to by the House and 30 have been brought back in technical disagreement.

The bill as agreed to by the Committee on Conference totals about $10.3 billion. In round numbers this is about $35.5 million less than the Senate-passed bill; about $2.5 billion above the House bill and about $1 billion below the budget estimates. It should be pointed out that the Senate considered almost $2.4 billion in formal budget estimates that were submitted to the Senate following House action on the bill and this, of course, explains why the Senate bill is far in excess of the House-passed bill. The major item which is now covered by a budget estimate but which had not been considered by the House is the New York assistance item with which we are all familiar.

Mr. President, I ask unanimous consent that immediately following my remarks there be included in the record a table showing the bill totals and comparative data for both fiscal 1976 and the transition period.

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

(See exhibit 1.)

Mr. McCLELLAN. Mr. President, I do not plan to discuss this bill at any great length today. This bill was before the Senate for 2 days just last week and most of the items of any great interest were discussed in some detail at that time. As I indicated on this floor last week and as the final vote then showed, many of us are not happy with the total of this supplemental bill—more than $10 billion. But a very small portion of this bill was before the Committee on Conference. There was $5 billion for payments to the unemployment trust fund and $1.75 billion for food stamps that were not subject to conference.

The major money item in conference was the $2.3 billion in New York assistance money and on this item the House conferees agreed reluctantly, with two conferees continuing to object to this item in the conference report and the joint statement of the managers. But these three items total more than $9 billion and this serves to explain, but not necessarily justify the size of this bill.

The conference agreement includes $5,500,000 for fiscal year 1976 and $1,375,000 for salaries and expenses of the Bureau of Alcohol, Tobacco, and Firearms of the Treasury Department to implement a test of concentrated urban enforcement—CUE—of gun control laws. These funds will enable the Bureau to employ up to 250 additional special agents and support personnel to assist in the conduct of the test in three geographically separated cities. One of the cities shall be Washington, D.C.

Mr. President, when the bill was before the Senate, I voted against the bill. I will vote against the conference report and I would like the RECORD to so reflect. Although there will be no rollcall vote I would like the RECORD to reflect my continuing objection to the bill.

I yield to the distinguished Senator from Massachusetts.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1976 and the transition period recommended by the committee of conference, with comparisons to the 1976 budget estimates, and the House and Senate bills for 1976 follows:

Budget estimates of new (obligational) authority (as amended), fiscal year 1976	[1] $11,303,560,377
Transition period	[1] 904,409,360
House bill, fiscal year 1976	7,820,306,201
Transition period	127,654,795
Senate bill, fiscal year 1976	10,334,347,777
Transition period	156,010,610
Conference agreement	10,298,883,117
Transition period	133,813,695
Conference agreement compared with:	
Budget estimates of new (obligational) authority (as amended), fiscal year 1976	−1,004,677,260
Transition period	−770,595,665
House bill, fiscal year 1976	+2,478,576,916
Transition period	+6,158,900
Senate bill, fiscal year 1976	−35,464,660
Transition period	−22,196,915

[1] Includes $2,375,333,516 in budget estimates for fiscal year 1976 and $2,644,900 for the transition period not considered by the House.

Mr. BROOKE. Mr. President, I concur, for the minority, on the supplemental appropriations bill.

Mr. President, as the chairman has indicated, the conferees agreed to supplemental appropriations of $10,298,883,117 for fiscal year 1976 and $133,813,695 for the transition period. This is a reduction below the budget estimates of $1,004,677,260 for fiscal year 1976 and $770,559,665 for the transition period. Overall the funding provided in this bill is a reduction of the amounts provided in the Senate bill.

I will not repeat the detail that has been provided by the chairman of the committee. However, I would like to make a few brief points.

First of all, as we are all aware, this bill contains $2.3 billion for New York City. We have spent considerable time debating this issue and I do not believe it necessary to elaborate further on this issue at this time.

Second, this bill contains $1.75 billion for food stamps and the special milk program. This is approximately $1.3 billion below the budget estimate.

Third, this bill contains $5 billion for unemployment. These funds are mandatory under existing law as a result of the high unemployment rate we are experiencing.

Mr. President, funds provided in this conference report are necessary to provide for many major needed programs but in particular to support increased pay costs, increases due to inflation and other urgent matters that cannot be delayed until the next supplemental appropriations bill or until fiscal year 1977.

I urge the adoption of the conference report.

Mr. JAVITS. Will the Senator yield very briefly?

Mr. BROOKE. I yield to the distinguished Senator from New York.

Mr. JAVITS. Mr. President, I shall not detain the Senate, but Senator ALLEN and I had a very interesting colloquy at the termination of the previous phase of this New York legislation in which I made certain statements to the Senate respecting my own activities in the future to make good what the Senate has done and, finally, is consummating in this bill.

I ask unanimous consent, because I think it is so pertinent to the final stage of this legislation, that my colloquy with Senator ALLEN may be printed in the RECORD.

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

Mr. JAVITS. Mr. President, I simply wish to express my appreciation for the statemanship which has just been shown by the very doughty opponents of the New York bill and by the extraordinary effort of the leadership on the Democratic side, aided by that on our side, especially by Senators TOWER and BROOKE, to bring this matter to a head before it would be too late to do anybody any good, no matter what the Senate decided.

I am very grateful for this, and it is only in that spirit that I speak. I have made many representations to the Senate on this subject, obviously a subject in which I am very well grounded, not only from study but also from life. I have lived in this city all my life, except for the war years, and I understand its troubles, and nobody knows its derelictions better than I. So I speak with a certain—I cannot say objectivity, but certainly with knowledge, from which objectivity comes.

First, we always must bear in mind that it is not only those bankers—and they serve a critical purpose in our country, as we all know—but also 160,000 individual holders, to who Senator ALLEN quite properly called attention.

It is a fact that New York City's securities have been considered tops; and even when the city and the State began to go wrong in terms of using the tax anticipation notes, because of the great reputation of New York City and New York State, people continued to buy them. I am very well aware of that and consider it an important element of conscience on the part of the people of the State and the city and on my part to see that those holders ultimately suffer no damage.

Second, the conditions of the loans, believe me, are truly tight. It will be a matter of conscience to me to do my utmost to see that they are dealt with honestly. I emphasize the word "honestly" because of the financial gimmickry for which New York City has been guilty and was kind of allowed to do it, to give it the kindest word, by the State.

Third, we have an enormous tax-paying ability, which is of great aid to the Federal Government. Roughly, in round figures, an estimated $25 billion to $30 billion comes out of our State every year. The New York business community can make the difference in whether or not that continues to be, in New York, the great source of revenue for all the things the rest of the country does. It may be remembered by some of my colleagues who have been here some time that even so beloved and close a friend and colleague of mine as Kenneth Keating and I differed very materially on education aid, for which New York was paying four to five times what it received. This did not throw me, but it did throw him, and I can understand why. But I stuck to my guns, and I always will, realizing that it is part of our duty. While we must get a better break in many of these formulae, and I have always fought for that, the fact is that we are destined to pay a considerable amount more than we have received and it simply cannot be simplistically run the other way. If you want to be the outlet and the intake for the United States, you have to pay for the franchise—that is what it really comes to.

So, I pledge to the Senate my utmost effort to marshal the enormous New York business community in the effort to make up for our problems in what looks like a very serious downhill slide for New York in terms of what it can generate in revenue in order to maintain it for the next quarter of a century as that kind of revenue source for the Federal Government.

Next, the State itself has financial problems and we are in grave danger of losing great business elements in our State, because it will just be too expensive and too difficult to do business there. Nobody is tied down; they can go elsewhere. It may be trouble and it may cost money, but ultimately they can do it. So I shall make it my business, to the maximum extent possible, to cooperate with the Governor of the State, who has done a wonderful job in respect of this particular problem and crisis, in order to make it possible for New York to be New York, notwithstanding the terrible drain which this is going to be for the next 3 to 5 years.

Finally, on the bailout issue, without arguing the use of the term—and I understand why it is used by Senator ALLEN and other opponents. I am too much of a trial lawyer myself to say, "Do not do it." But I should rather address myself to the merits there. This will take, in addition to the business community, a highly disciplined New York City, by 8 million people, who will have learned from this terrible experience what it means to run a tighter ship. That goes not only for taxes and financing, but it also goes for crime and drug addiction and the many other things which have dragged our city down and have been responsible for many of the adverse developments with respect to it. There, too, I have been responsible, with the alliance of Senator BUCKLEY, in organizing an outstanding citizens committee, chaired by Osborn Elliott, who is the editor-in-chief of Newsweek, secretaried by a man who used to be my New York assistant and is now the secretary of this citizens committee, named Dennis Allee, who has a fine record, and joined in by some of the leading citizens of our city of all kinds, from the financial and artistic side to the highest business levels, with the honorary chairmanship of the leading political people—myself, Senator BUCKLEY, Congressman DELANEY, the head of the New York delegation, the Governor and the mayor and the comptroller of the State of New York. We shall do a job there, with the citizens, in terms of self-help and the discipline which is going to be required of the people of New York.

Mr. President, I believe that that is a proper accounting by me to the Senate of what I hope to do for what I consider to be a certain faith placed in my good faith and intentions by the Senate in voting this New York bill, which was no pleasure to any Members of the Senate, including myself.

Mr. ALLEN. Will the Senator yield?

Mr. MANSFIELD. Mr. President, if the Senator will allow me, I want to say that I took note of the criticism of the leadership by the distinguished Senator from Alabama. I must admit, in all candor, that there was merit to what he had to say, and I wish to take this opportunity to thank him for the temperateness of the criticism which he directed at the leadership.

Mr. ALLEN. Will the Senator from New York yield?

Mr. JAVITS. I yield to the Senator.

Mr. ALLEN. I commend the Senator from New York for his statement. I certainly admire the fight he has put up here in the Senate and elsewhere in behalf of his city and State. He certainly started out with an underdog position, but, through circumstances that developed, he was able to win his case here in the Senate. Now that the issue has been decided, certainly, I shall express my best and kindest wishes for New York and its people, which has never been other than my attitude. I have felt, all along, that in taking the position that I have against this, shall I say, assistance rather than bailout—this assistance to New York City—I was standing for the people of New York.

I felt that the assistance at the Federal level would serve to freeze in this wasteful level of public expenditures in New York City, but that by solving the matter themselves, or taking the protection of the bankruptcy statutes, New York would emerge with a level of expenditures that the taxpayers could better support. I am hopeful that this $2.3 billion will be sufficient to tide New York over until it can put its affairs in better shape.

The distinguished Senator has my very best wishes for the success of this program and for better days, economically, for New York. Certainly, I appreciate the pledges the distinguished Senator has made to use his best efforts and his good offices in seeing that the agreements and stipulations that New York is entering into are carried out in order that this will be a program that is beneficial to all.

Again, I want to commend the distinguished Senator from New York for the role that he has played. It is a role that I have opposed, but still, I have admired him for his tenacity, and for the evenness of his disposition through the trying hours this matter has been under consideration. I applaud him for the success of this measure on the Senate floor.

Mr. JAVITS. I am very grateful to my colleague. He is very generous. I have never had the least doubt of the sincerity of my colleagues, and I have always believed that liberals and conservatives, be we what we may, it is our amalgam that makes our country what it is. I thoroughly believe in it, just as the Senator does, and I welcome and applaud his efforts in what he felt, in deep conscience, he should do.

May I say, finally, that if the Lord will give me years, I shall do my utmost to see that the investment made by our country is the right one and that it is a success.

Mr. ALLEN. Mr. President, I thank the Senator.

Seeking recognition in my own right, I am delighted that the distinguished majority leader commented so generously on the remarks the Senator from Alabama made with regard to the piloting of these two bills, the rail transportation bill and the New York assistance measure—I say out of deference to the distinguished Senator from New York (Mr. JAVITS)—through the Senate. He was kind enough to say there is some merit in the criticism—and I guess it was criticism—offered by the Senator from Alabama. I think it might be noted that he made no pledge to mend his ways in the conduct of Senate business here, so I shall have to say that, as long as that is the attitude of the leadership, we are going to have to look for more extended discussions on subjects here in the Senate.

Mr. JAVITS. Mr. President, I would like to extend my thanks on behalf of the people of the city of New York to Senator PROXMIRE and to Senator BROOKE, who were so gifted, and to Senator STEVENSON and other Senators who participated in the same way.

Also, the very splendid action by our country in respect of the United States-Japanese Friendship Act which is also contained in this bill, which will do our country enormous good in the years ahead, and to express appreciation for the extraordinary statesmanship of Senator PASTORE and Senator INOUYE.

I thank the Chair.

Mr. BROOKE. Mr. President, we have come a long way, and I think we have accomplished the only rational solution. I commend my colleague, the distinguished senior Senator from New York, for all the work I know he has done on this particular piece of legislation, starting from our hearings before the Banking Committee and on each phase of this legislation. He has always been present and working toward a proper solution. He has done a yeoman's job for his fine city, the city of New York, and it has been a joy to work with him. I commend him.

Mr. JAVITS. I thank my colleague.

Mr. MAGNUSON. Mr. President, the conference report on the first supplemental appropriations bill before the Senate contains some very important and high-priority Labor-HEW programs.

This chapter is the largest in the bill—a total of $5,104,139,000. We did very well in our conference with the House. The Senate sustained well over 50 percent of all the Senate figures.

This money is for service, care, and training programs—visible, high-need

areas which many people in our country will benefit from almost immediately.

Five billion dollars has been allowed for unemployment compensation. These are tough times. Without this money, families all over the country will have an awful long, cold, hungry winter.

I want to inform the Members of an oversight which occurred while this bill was being printed and prepared. It was our intention to delete a provision, enacted in the education appropriations bill, which deals with limiting consultant services. Because of an oversight, this problem will have to be dealt with in a subsequent bill containing Labor-HEW programs.

There are also many preventive health programs in this bill—over $450 million for health services. This includes funding for the new hypertension programs, important migrant health centers, community health centers, and rat control in our cities.

We have also expanded a very important community program—community mental health centers. This growing network across the Nation is helping thousands of people to help themselves—instead of being put in expensive institutions during a time of great stress and need.

The conferees have also agreed to increased funding for the new and very important nurse training programs. This will begin to help nurses accept a larger role in our health care system through better training and services to our aged and medically underserved areas.

All of these health programs have finally received the new authorization under the Health Services—Nurse Training and Health Revenue Sharing Act of 1975. We will now be able to once again renew our efforts in developing a working health delivery system in this country. We have a long way to go, but this is another giant step.

In the past we simply had to provide funding, and the programs would be properly implemented. Now, unfortunately, things are more complicated. The administration has gone to a method of slowing new programs or destroying old ones—the impoundment of positions.

It is because of this that many health programs have as much as a 40-percent decrease in positions while having 40- to 90-percent funding increases since 1968. This clearly creates poor management and the inability to carry out good research.

This position of OMB forced the Congress to take action to solve this problem. What we did in the regular Labor-HEW appropriations bill was a "first." The Congress clearly provided positions to continue and initiate health research and service programs in the conference report (No. 94–689), which was overwhelmingly passed by both Houses of Congress.

Now, the House conferees and their chairman (Mr. FLOOD) on this first supplemental have encouraged the Senate conferees to insert the following table on positions into the RECORD during the adoption of the conference report. These are the same positions which the Senate included in its Senate report. We are very serious that these additional positions be provided. They are vital if the newly-authorized health programs are to ever be properly implemented. These positions will help the nursing programs, which have been drastically cut back, as well as health service and prevention projects.

	1975 level	1976 budget	1976 conference allowance	Senate committee supplemental allowance	Increase
Health Services [1]	7,796	6,995	7,797	7,846	+49
Center for Disease Control	3,569	3,508	3,648	3,682	+34
Alcohol, Drug Abuse and Mental Health (Mental Health)	1,696	1,590	1,796	1,816	+20
Health Resources Administration	2,046	2,046	2,066	2,096	+30

[1] Excludes 150 National Health Service Corps positions added by the House and Senate for the same purpose.

I urge adoption of this conference report. We must begin the implementation of these vital new programs now. Every day is important in our efforts to create a good, efficient national health care system for all of our citizens.

Mr. President, I would like to include in the RECORD a response I requested from HEW regarding Senator CRANSTON's remarks on the floor December 10 when we passed our version of this supplemental.

Senator CRANSTON appeared to be making the point that $1.4 million of the $18.5 million in developmental disabilities special projects is already earmarked for vocational rehabilitation client assistance and migrant projects. The Department's position, to the contrary, is that the full $18.5 million provided by transfer in this supplemental is available for use under the new developmental disabilities legislation. If this continues to be a matter of dispute, perhaps we could ask the General Accounting Office to help resolve the problem.

I ask unanimous consent that HEW's position on this issue be printed in the RECORD, as well as a conference report table.

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

HEW POSITION ON $18.5 MILLION IN DEVELOPMENTAL DISABILITIES SPECIAL PROJECTS

Senator Cranston believes that only $17.1 million, instead of $18.5 million, is actually available in FY 1976 for developmental disabilities service projects. The Senator's point is that $1.4 million of the $18.5 million is already earmarked for vocational rehabilitation Client Assistance and Migrant projects.

The Department's position is that the full $18.5 million is available for use under the new developmental disabilities Act.

The Supplemental Budget Request asked that $18.5 million be made available under the new Special Projects authority of the Act. Both the House and Senate bills agree with this. Since these projects would be funded under the new authority (and not section 304 of the Rehabilitation Act as was done in the past), we would no longer trigger the mandate in section 112 of the Rehabilitation Act for funding Client Assistance.

It is now our intention to have Client Assistance projects compete with other Rehabilitation projects.

Migrant projects would continue to receive 5% of the amount appropriated under section 304 of the Rehabilitation Act, as required by that Act.

The Department has not made final decisions on the total amount to be used for Client Assistance and Migrant projects in FY 1976.

SUPPLEMENTAL APPROPRIATION BILL, 1976
LABOR–HEW SUBCOMMITTEE

	1975 appropriation	1976 regular budget request	1976 supplemental request	House and Senate action
DEPARTMENT OF LABOR				
Manpower Administration:				
Advances to the unemployment trust fund and other funds	$5,750,000,000		$5,000,000,000	$5,000,000,000
Grants to States for unemployment insurance and employment services	(1,242,300,000)	($1,069,000,000)	(364,100,000)	(364,100,000)
Labor-Management Services Administration:				
Salaries and expenses	36,845,000	42,000,000	4,618,000	3,910,000
Transition period		10,047,000	1,930,000	1,930,000
Departmental Management:				
Salaries and expenses	30,339,000	33,242,000	305,000	203,000
Transition period		7,781,000	154,000	154,000
Employment Standards Administration:				
Salaries and expenses	76,116,000	79,715,000	3,340,000	2,926,000
Transition period		19,929,000	1,198,000	1,198,000
Special benefits	165,000,000	201,000,000	97,100,000	97,100,000
Transition period		70,000,000	10,800,000	10,800,000
Total, Department of Labor	6,058,300,000	355,957,000	5,105,363,000	5,104,139,000
Transition period		107,757,000	14,082,000	14,082,000

DEPARTMENT OF HEALTH, EDUCATION AND WELFARE—FISCAL YEAR 1976 SUPPLEMENTAL APPROPRIATION BILL

Appropriation/activity	1975 actual	1976 pending request	1976 House allowance	1976 Senate allowance	1976 conference agreement
HEALTH SERVICES					
Health revenue sharing (Sec. 314(d))	$90,000,000		$90,000,000	[1] 97,500,000	[2] 93,750,000
Family planning:					
Project grants (Sec. 1001(c))	94,500,000	$75,135,000	94,500,000	94,500,000	94,500,000
Training (Sec. 1003(b))	3,000,000	2,000,000	3,000,000	3,000,000	3,000,000
Information and education (Sec. 1005(b))	600,000	300,000	600,000	600,000	600,000
Research (Sec. 1004(b)(1))	2,515,000	2,000,000	2,515,000	2,515,000	2,515,000
Subtotal	100,615,000	79,435,000	100,615,000	100,615,000	100,615,000
Migrant health centers:					
Planning and development grants (Secs. 319(h)(1))					
Operational costs grants (Secs. 319(h)(2))	23,750,000	19,200,000	23,750,000	25,000,000	25,000,000
Outpatient and hosptial services (Secs. 319(h)(3))					
Community health centers:					
Planning and development (Sec. 330(g)(1))	196,648,000	155,190,000	196,648,000	196,648,000	196,648,000
Payments for operation (Sec. 330(g)(2))					
National Health Service Corps: Extension of Sections (Sec. 329)	[3] 14,055,000	12,529,000	15,000,000	15,000,000	15,000,000
Home Health services, Public Law 94–63:					
Demonstration and initial operation (Sec. 602(a)(5)			3,000,000	3,000,000	3,000,000
Demonstration training of personnel (Sec. 602(b)(4))					
Hemophilia programs:					
Treatment centers (Sec. 1131(f))			1,000,000	1,000,000	1,000,000
Blood separation centers (Sec. 1131(e))			2,000,000	2,000,000	2,000,000
Total, Health Services	425,068,000	266,354,000	432,013,000	440,763,000	437,013,000
Transition quarter		(65,017,000)	(87,517,000)	(112,000,000)	(89,662,000)
PREVENTIVE HEALTH SERVICES					
Diseases borne by rodents (Sec. 317(d))	13,100,000	5,410,000	10,410,000	13,710,000	13,100,000
ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH					
Community mental health centers: (CMHC Act):					
Planning community mental health centers (Sec 202(d))			1,500,000	1,500,000	1,500,000
Initial operation (Sec 203(d))			18,000,000	30,000,000	24,000,000
Consultation and educational services (Sec. 204(c))			3,000,000	5,000,000	4,000,000
Conversion (Sec: 205(c))			20,000,000	20,000,000	20,000,000
Financial distress (Sec. 213)			6,000,000	4,000,000	4,000,000
Rape prevention and control (Sec. 231)			2,000,000	4,000,000	3,000,000
Total, ADAMHA			50,500,000	64,500,000	56,500,000
HEALTH RESOURCES					
Nursing:					
Institutional assistance:					
Capitation grants (Sec. 810)	34,343,000		44,000,000	44,000,000	44,000,000
Special projects (Sec. 820(d))		15,000,000	15,000,000	15,000,000	15,000,000
Advanced training project grants (Sec. 821(b))	23,039,000	1,000,000	1,000,000	3,000,000	2,000,000
Nurse practitioners (Sec. 822(d))		2,000,000	2,000,000	4,000,000	3,000,000
Student assistance:					
General scholarships (Sec. 845)			[4] 2,000,000	[4] 2,000,000	2,000,000
Traineeships (Sec. 830)	13,016,000		13,000,000	13,000,000	13,000,000
Student loans				8,000,000	6,000,000
Total, Health Resources	70,398,000	18,000,000	77,000,000	89,000,000	85,000,000
Transition quarter		(4,000,000)	(6,000,000)	(6,000,000)	(6,000,000)
National Institute of Education (educational satellite activities)	4,292,000			3,250,000	
ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT—HUMAN DEVELOPMENT					
White House Conference on the Handicapped (S. 306 White House Conference on Handicapped Individuals Act)	25,000	2,955,000	2,955,000	1,370,000	1,370,000
Grants to the developmentally disabled (Developmentally Disabled Assistance and Bill of Rights Act):					
State grants (S. 131)	30,875,000	30,875,000	32,875,000	32,875,000	32,875,000
University affiliated facilities (S. 123)	4,250,000	4,250,000	4,250,000	4,250,000	4,250,000
Total, OHD	35,150,000	38,080,000	40,080,000	38,495,000	38,495,000
Transition period		(8,668,000)	(9,168,000)	(9,150,000)	(9,317,000)
DEPARTMENTAL MANAGEMENT—GENERAL DEPARTMENTAL MANAGEMENT					
Office of investigations and security			413,000	413,000	413,000
Transition period		(.....)	(206,000)	(206,000)	(206,000)
Total, DHEW	548,008,000	327,844,000	610,416,000	650,131,000	630,521,000
Transition period		(77,685,000)	(102,891,000)	(127,716,000)	(105,185,000

[1] Includes $7,500,000 for hypertension programs.
[2] Includes $3,750,000 for hypertension programs.
[3] Includes $5,000,000 appropriated in 1975 and made available for obligation through June 30, 1976.
[4] $4,000,000 request already considered in regular Health and Welfare appropriations bill. The $2,000,000 is in addition to amount provided in regular appropriation bill.

Mr. BROOKE. Mr. President, since the distinguished chairman of our subcommittee (Mr. MAGNUSON) has provided an overview of the conference action on the Labor-HEW portion of the supplemental, I will mention just a few of the programs covered by our chapter of the bill.

I am particularly pleased that the House conferees agreed to provide $3.7 million in startup funds for the recently authorized hypertension program. Hypertension is a serious problem which afflicts millions of people—and many of its victims do not even know they have it. It is essential that HEW work out a formula to target these funds on areas with high incidences of hypertension.

Also approved was the Senate add-on which will allow migrant health centers to continue operation at the fiscal year 1975 level rather than the 20-percent decrease which had been recommended.

The sum of $24 million will be available in fiscal year 1976 for initial operations of community mental health centers—there was no budget request for this program—$3 million has been allocated to implement the new Rape Prevention and Control Act—a $1 million increase over the House passed level.

The Senate provided increases of $12 million for nursing programs. Of this amount, the House accepted $8 million to be distributed among nursing loans, advanced nurse training and nurse practitioner programs.

The House agreed with the Senate reduction of $1.5 million for the White House Conference on Handicapped Individuals. The amount contained in the Senate bill will be sufficient to fund this year's activities and we will consider the additional funding needs in the next regular HEW Appropriations bill.

Since the House and Senate levels for

the Department of Labor were identical, there were no programs in conference for this Department and the total of $5.1 billion remains unchanged. Five billion dollars was requested by the President for future unemployment benefits.

I feel that the conferees have reported a balanced bill for HEW as well as the other agencies funded through this chapter of the supplemental and I urge that the conference agreement be accepted by the full Senate.

Mr. MANSFIELD. Mr. President, at this time I would like to ask a question or two about the language in the Senate committee's report on this bill that concerns the appropriation item for the National Commission on Supplies and Shortages. At page 83, the report states as follows:

> The Commission is advised that $80,000 of the funding provided shall be made available for use by the Advisory Committee.

As the able chairman knows, the Advisory Committee to the National Commission is considered extraordinarily important in terms of the legislative mandate which has been assigned to it. The $80,000 figure, I assume, refers to the fiscal year 1976 ending June 30, 1976 and does not include the transition period ending September 30, 1976. Is that a fair statement?

Mr. McCLELLAN. It is my understanding that the Appropriations Committee was referring only to the fiscal year ending June 30, 1976, in that particular statement.

Mr. MANSFIELD. As I recall, approximately $40,000 in addition to the $80,000 was contemplated out of the total funds made available to the Commission for use by the Advisory Committee during the transition period.

Mr. McCLELLAN. I would think that during the transition period at least $40,000 would be needed by the Advisory Committee to perform the task it was assigned under Public Law 93-426. If there is any doubt about this in the mind of the Commission, I would think that prior to the commencement of the transition fiscal year the matter could be resolved by the committee through an appropriate vehicle that will come before the Senate in the first half of the next calendar year. I suggest this matter be given further attention at that time.

Mr. MANSFIELD. I thank the distinguished chairman. I think the RECORD is clear.

Mr. HOLLINGS. Mr. President, when this bill passed the Senate, I voted for it so that I could support my legislative section in the conference markup. Now that the conferees have agreed, I am in a position to express my feeling about the seasonal financing for the city of New York. I will vote "No" to the adoption of the conference report. The New York problem has been a moving target and it is extremely difficult to document the understanding of the members in appropriating $2.3 billion in this measure. For my part, I look at the causes and I examine the proposed solution of $2.3 billion. Rather than outline in an argumentative way, I shall ask unanimous consent to have printed in the RECORD at this point an article in New York magazine by Ken Auletta and one from the Reader's Digest.

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

WHO'S TO BLAME FOR THE FIX WE'RE IN

(By Ken Auletta)

On October 7, 1965, William F. Buckley, then a candidate for mayor, warned, "New York City is in dire financial condition, as a result of mismanagement, extravagance, and political cowardice. . . . New York City must discontinue its present borrowing policies, and learn to live within its income, before it goes bankrupt." Judging by the reaction, one would have thought Buckley had proposed to drop the atom bomb on Israel.

It took a decade for Buckley to appear "responsible." He was bucking the sixties, the Age of Good Intentions, when candidates solemnly promised to outspend their rivals. New ideas. New programs. That's what we wanted. An unwitting spokesman for the age was Mayor Robert F. Wagner, who, in his last budget message, in 1965, declared: "I do not propose to permit our fiscal problems to set the limits of our commitments to meet the essential needs of the people of the city."

Consistent with that curious fiscal philosophy, New York City persisted in an ambitious—and compassionate—effort to care for those less fortunate by taxing those who could afford it. Today, 14 per cent of our citizens are on welfare. We support nineteen municipal hospitals, free tuition at the City University, open enrollment, day-care centers, foster homes—and we have an assortment of more than 25 different taxes. We have conducted a noble experiment in local socialism and income redistribution, one clear result of which has been to redistribute much of our tax base and many jobs out of the city.

The city's now overwhelming credit crisis is primarily a symptom, not a cause, of a deeper economic malaise, whose roots reach back three decades and encompass a series of city, state, and even federal decisions. This is a piece about those decisions, a chronicle of the people and events that cumulatively pulled us into our predicament.

To pinpoint the most important of these decisions, I interviewed more than 40 public officials, labor leaders, businessmen, bankers, and students of city government. My question was always the same: What were the key events and decisions that led to the city's present fiscal crisis? After sorting through these responses, and assisted by a research associate, Robert Sullivan, I waded through old budget. Board of Estimate minutes, press releases, newspaper clips, state laws, books and pamphlets. Then, when I had narrowed the choices, I did more interviewing.

In time, twenty critical decisions seemed to me to be the key events that let New York into financial ruin. The criterion for selection was not merely a "bad" or a "good" decision as such, but also those that opened the door for later abuse.

There are those who stress that New York is primarily the victim of social forces beyond its control. They will be disappointed in what they find here. Sure, there are general villains in plenty: the migration since World War II which brought 2 million blacks and Hispanics (largely poor) to the city and the departure of 2 million primarily white residents (largely middle income); the loss of one out of ten jobs in the last five years; inflation; taxes; racial polarization; anti urban bias; even the invention of the automobile. Not to mention such nondecisions as insufficient federal and state aid and the failure to engage in effective economic planning.

But to blame everybody is to blame nobody. There are particular villains in this story. If there is a single common thread weaving through these many decisions, it would be what is called "politics." And since "liberal" politicians have dominated city government these many years, it is they who are more guilty than others. The roll-overs, false revenue estimates, and plain lies that have robbed taxpayers of literally billions through excessive borrowing to cover up excessive fraud . . . people have gone to jail for less.

If the principal actors who have guided our city's destiny these last several decades—Wagner, Rockefeller, Beame, Lindsay—seem the chief villains in this piece, it must be remembered that they could not have accomplished all they did without a supporting cast of state legislators, borough presidents, City Council members, and city comptrollers.

Add to this list promiscuous bankers, voracious labor leaders and their members and—by no means least—the press, because it was too preoccupied with gossip, too lazy, or assumed its readers were too dumb or too bored to bother with detail. Finally, there's the press's audience, the public, which all too often lived down to the press's low expectations.

So, this is a story not only about what our "leaders" did—and how—but about what we did to ourselves.

TWENTY CRITICAL DECISIONS THAT BROKE NEW YORK CITY

1. June 22, 1944: The G.I. Bill of Rights is enacted.

One cannot write about the city's fiscal crisis without tracing the exodus of 2 million middle-income people since World War II to the suburbs. The decision of the federal government in 1944 to provide 4 per cent home loans to World War II veterans, with no down payment required, opened the floodgates. The American dream of owning a home and property converged with federal moneys to subsidize that dream. There were few comparable incentives to keep people in town. Implicitly, the government was saying: We invite you to the suburbs. Millions took advantage of that offer. To get them to their new homes, various governments and agencies would subsequently, quite literally, pave the way.

2. March 26, 1953: Governor Thomas E. Dewey signs a bill allowing New York to impose a payroll tax.

Governor Dewey, in a then common Republican effort to win suburban and upstate support by running against and embarrassing Democratic New York City, had the legislature pass a bill granting the city authority to impose a payroll tax of one-half of 1 per cent on all wage earners—including commuters. The cost of this was to be shared by the employer and the employee. There was a state string attached, however. The tax could be imposed only if the city agreed to set up a Transit Authority and commit itself to make its mass transportation system self-sustaining. Which was politically impossible. The city got the Transit Authority. What it didn't get was a payroll tax. On the recommendation of Mayor Wagner, the Board of Estimate rejected it. Through the mid-sixties the city retained this authority to impose a payroll tax. It was unused, and finally withdrawn by the state. For years the city has fought, vainly, to get permission of the State Legislature to tax commuters. A payroll tax would have provided a means to do so. If the city now had the payroll tax John Lindsay had asked for in 1970—his proposal would also have abolished the city income tax—an estimated additional $400 million would have been received from commuters alone this year.

3. January 16, 1955: The Port Authority and the Triborough Bridge and Tunnel Authority agree on a master plan—for cars

Many factors were to contribute to the erosion of the city's economic base—repeal

of the Lyons law, for example, which had required city employees to live in the city, and constantly rising taxes which encouraged business to leave town. But it was the highway construction binge after World War II that made it easy to do so.

The Port Authority and the TBTA agreed on a plan to build a second level of the George Washington Bridge, the Throgs Neck Bridge, and the Verrazano-Narrows Bridge—each to carry cars only—and for ribbons of access roads and highways to go with them. It was a $1.2 billion package, and its architect was Robert Moses. As Robert Caro wrote in *The Power Broker*, his biography of Moses, the pact "sealed, perhaps for centuries, the future of New York and its suburbs." If the proposed money had been applied to mass transit—an abhorrent thought to Moses or the Port Authority's Austin Tobin—the city could have completely remodeled its subway system.

Little more than a year later, on June 29, 1956, the Federal Highway Trust Fund was established, creating a mechanism—a gasoline tax—to funnel new billions each year into highway construction. Between 1956 and 1965 alone, these funds paid for the construction of 439 miles of new highway in the metropolitan area. In the same period, not a mile of new rapid-transit track was completed.

4. March 31, 1958: Mayor Robert F. Wagner issues Exectuive Order Number 49

What came to be called the "Little Wagner Act" was in fact the Big Wagner Act for municipal unions. The mayor's executive order granted to 100,000 city employees the right to join the union of their choice and the right to bargain collectively. It was not an easy decision. Wagner's advisers were divided between those who opposed the order, claiming it would lead to increased union pressure, and those who favored it, arguing it would impose orderly machinery for the resolution of disputes, bring stability to city agencies, and promote efficiency.

A labor adviser to Wagner, one who urged the signing of the executive order, now thinks it was a "mistake." He now believes it was wrong to assume that a municipal union can be dealt with like a trade union, because "the city is not an employer in the traditional sense. Profits do not exist. Workers are not extracting a share of profits but rather a share of taxes." He now views municipal collective bargaining as part of the political rather than the adversary process. Therefore, he says, municipal unions "are really a pressure group, a special-interest group."

A pretty powerful one, too. They are heavy contributors of money, printing, and manpower to campaigns. As Victor Gotbaum, head of District Council 37 of State, County, and Municipal Employees' union, recently remarked: "We have the ability, in a sense, to elect our own boss."

The signing of the executive order led inexorably to the dilution of the power of city executives to manage their departments, since it placed such matters as "workload and manning" on the collective-bargaining table.

City union contracts now specify two-man, rather than one-man, patrol cars in low-crime areas; four rather than five men to a fire truck; a set number of days off for blood donations; 35-hour, rather than 40-hour, weeks for most city employees; eighteen days off a year for "chart" time for cops; fifteen minutes a day of paid wash-up time for sanitationmen; more than three months a year of paid vacation for teachers, plus paid sabbaticals.

Federal employees, who do not have the same collective-bargaining rights, have received salary increases averaging 5.5 per cent in the last ten years. In the same period city salaries grew by 10.4 per cent.

One does not have to make labor a scapegoat or excuse a weak management to note, as Newsweek did recently, that even after adjusting for disparities in county, state, and federal aid, it still costs New York City $1,446 per capita to deliver the same services that cost Atlanta only $650, Chicago $715, and Philadelphia $731.

Following Wagner's executive order in 1958, the New York Times editorialized: ". . . city employees . . . will now be permitted to bargain harder for a pay rise that isn't there." Ultimately the Times was right, but it took a calamitously long time to make it so.

5. March 26, 1960: Governor Rockefeller signs a bill increasing by 5 percent the state's contribution to state employees' pensions

On the face of it, this appears to be a minor decision with small immediate dollar consequences. But, in fact, this decision signaled the beginning of a process of leapfrogging, of open competition between the city and state to outdo each other in rewarding their servants. The bill for the first time made pensions a part of collective-bargaining settlements and invited competition among public unions. Former Mayor Wagner recalls a Loyalty Day Parade in the early sixties. He and Rockefeller "were heading up the parade. The police and firemen were shouting, 'Atta boy, Rocky!' So I turned to Nelson and I said, 'You son of a gun, taking all the credit.' He laughed."

The financial consequences of the 54 pension bills passed between 1960 and 1970 are staggering. In 1961, according to the State Scott Commission, the city paid $260.8 million to provide its employees with retirement and social security benefits. By 1972, that had jumped to $753.9 million, a growth of 175 per cent. The rapid increase in city employment accounted for only 30 per cent of this increase.

This year, the city budget for retirement benefits is $1.3 billion. But not even that sum gives the whole story. The business-oriented Committee for Economic Development has calculated that when all the city's costs—including hidden ones—are figured in, pensions will cost about 25 per cent of payroll. And the payroll itself now consumes 60 per cent of the city's budget.

6. April 18, 1960: Governor Rockefeller signs a bill creating the State Housing Finance Agency

Until the creation of this agency, public authorities were expected to be self-sustaining. The things they built were supposed to pay their own way. However, upon the recommendation of a housing task force consisting of such luminaries as I. D. Robbins, James Scheuer, and Harry Van Arsdale, Rockefeller persuaded the State Legislature to depart from this policy.

The new agency would build nothing itself; it would provide money for others to build with. There would be no direct user revenues. The purposes for which the money could be used were broadly defined. As a way of getting around the state constitutional requirement to hold a public referendum in order to sell bonds backed by the "full faith and credit" of the state, the HFA would now rely on what was called "the moral obligation" of the state, for which voter approval wasn't necessary.

The "moral obligation" concept was thought up by John Mitchell, the bond lawyer who went on to other things.

The governor, in lining up support, tried to have it both ways. On the one hand, he told the public it would cost the "taxpayers" no money. On the other, he told investors that the state taxpayers would back the bonds. Years later we would all pay. "The decision on moral-obligation bonds," says Donna Shalala, a professor of government at Columbia University and a director of the Municipal Assistance Corporation, "reinforced and led to the era of avoiding constitutional requirements. It was difficult for the state to say to the city, 'Look, you're avoiding statutory or constitutional requirements in preparing your budget' when the state ignored the constitution by not going to the voters on bond issues."

By the winter of 1975, the moral-obligation debt of state public authorities had soared to $7.4 billion. Public authorities had proliferated across the state, now totaling 230. And in February, 1975, one of the children of the HFA—the Urban Development Corporation—defaulted on its moral obligations, setting off the chain reaction which now threatens the entire local and state government bond market.

7. November 7, 1961: Voters approve new city charter

This was an eventful day in New York. It was a day the voters re-elected Bob Wagner—running against his own eight-year record—as mayor. Less noticed was a proposal supported by such good-government groups as the City Club and the League of Women Voters to amend the city charter. It carried by better than two to one. Among the charter changes were two that would strengthen the Office of mayor. One empowered the mayor to estimate general fund revenues, a power formerly shared with the comptroller, the Board of Estimate, and the City Council; the second granted the mayor the power to estimate the maximum debt the city might incur for capital projects, a power also formerly shared.

It was the belief at the time—much as it was in Washington—that we needed a strong chief executive with the power to make decisions. The charter changes strengthened the mayor's powers, but they also opened these powers to abuse. An audit check on the mayor had been removed.

The new charter took effect on January 1, 1963. Fiscal sleight-of-hand began almost instantly. On April 2, 1963, Wagner proposed to balance his $3-billion budget, in part, by waiving payment of $15 million to the city's Stabilization Reserve Fund for one year. The City Council rubber-stamped this request, as did the State Legislature.

Comptroller Beame, unhappy with this approach, called on Wagner to use magic instead and balance the budget by increasing general fund estimates by $13.75 million and by changing the payment dates on state aid, thereby shifting the following year's state aid payments into the upcoming fiscal year.

Then, on May 6, Wagner solemnly warned: "A way must be found to replace a $40-million loss from the out-of-city sales tax." But on May 14, he suddenly saw a "brighter economic outlook" and said that the city could count on an additional $26.3 million in revenues.

"The significance of the charter change," argues a budget expert, "was that when you had a mayor operating with a Budget Bureau which was creative, the sky was the limit."

8. April 3, 1964: The New York State local finance law is amended

The State Legislature and the governor, each of whom is required to pass on every city budget, have often passed on, winked at, or initiated gimmicks which allowed city officials to use the capital budget—intended to pay for projects with a long economic life—for current expenses. Instead of requiring politically painful budget cuts, Section 11, Paragraph 62 permitted officials to use the capital budget to borrow money for *current* expenses.

Imagination bloomed. In his 1964–65 capital budget, Mayor Wagner buried $26 million in expense items. Governor Rockefeller approved an administration bill (Chapter 634 of the Laws of 1967) which allowed

"the costs of codification of laws and the fees paid to experts [lawyers], consultants, advertising and costs of printing and disseminating" to be regarded as a capital expense by granting these expenses a "three year period of possible usefulness." This from our present vice-president, who is now campaigning against "permissive liberals."

The expanding use of this device and its long-range cost and effect on "investor confidence" should not be underestimated. Between 1965 and 1975, according to the Citizens Budget Commission, a total of $2.4 billion in expense items was smuggled into the capital budget at an added interest cost of $250 million. It has become a major factor in the city's massive debt service, which in this year is projected to require $1.886 billion, consuming 14 cents out of every expense budget dollar, or more than the city spends for police, fire, the City University, sanitation, and the environment combined.

9. May 13, 1965: Mayor Wagner closes a budget gap by short-term borrowing

Mayor Wagner had planned to present his last expense budget to the full Board of Estimate before live television cameras. But word had leaked out that the mayor planned to close a $255.8-million budget gap by issuing short-term notes and by asking two separately elected state legislatures and the voters to approve a constitutional amendment permitting the city to increase real estate taxes 20 per cent. Editorialists screeched. City Comptroller Beame, a close Wagner ally, blasted the plan.

The live TV plans were scratched. Instead, Deputy Mayor Edward F. Cavanagh Jr. read a six-minute message to two Board of Estimate members on the same day John Lindsay announced his candidacy for mayor. Among the highlights of the Wagner budget message was his plan to "borrow now, repay later," as he phrased it. Expressing the optimism and rhetoric of the day, he said, "I intend that we shall press ahead with the war on crime, the war on poverty, the war on narcotics addiction, the war on slums, the war on disease, and the war on civic ugliness."

Such "wars" cost money, and Wagner presented a tricked-up, record-high $3.87-billion budget to pay for them. It was deficit planning and the implications for the future were profound. In July, Moody's lowered New York City's credit rating, thereby costing taxpayers millions of dollars in additional interest charges. According to one official on the privately funded Citizens Budget Commission, an organization whose timely and pertinent warnings went largely unheeded over the years, "Wagner showed it could be done. His action showed that our laws—with the help of the legislature, our constitution, and our statutory framework—are sufficiently elastic to encompass a devastating amount of mismanagement." Governor Rockefeller helped round up sufficient Republican votes in the legislature to pass this scheme.

On June 30, 1965, the city's short-term debt was $526 million. By February, 1975, it had grown to an insupportable $5.7 billion.

On December 21, 1965, Mayor-elect John Lindsay, sounding remarkably similar to the man who would follow him into office eight years later, expressed alarm: "I face a budget gap of almost a billion dollars for the first fifteen months of my administration." Wagner denied there was a deficit, as Lindsay would eight years later.

10. January 12, 1966: Mayor Lindsay settles a citywide transit strike

Mayor-elect John Lindsay journeyed to the Americana Hotel on December 27, 1965, to meet with representatives of the Transport Workers union and the Transit Authority. He asked both sides to arrive at a "fair settlement" to avoid a transit strike and then, with unaccustomed humility, declared: "I am not an expert on labor matters."

Over the next fifteen days he would prove this. On January 1, 1966, 34,800 transit workers went on strike, immobilizing most of the city. It was the first strike in TWU history, and the first major citywide strike in the city's history. Until this point, unions would threaten and bluster but then sit down in some smoke-filled room and work out a settlement. This time—after Lindsay denounced what he called the "power brokers," after the New York Times, near hysteria, had blasted a judge for merely throwing union leaders in jail, after union president Michael Quill had called his mayor a "pip-squeak" and the Times a "meddler"—the strike was settled with a package of improvements worth $52 million, or twice what one of the three mediators said could have been the price.

Price aside, there was another important consequence. As former Mayor Wagner now recalls, "They went on strike—a violation of the law—and yet as part of the settlement they were forgiven, with no penalties to any extent."

The 1966 transit strike was John Lindsay's Bay of Pigs. It set the pattern for his future shaky dealing with municipal labor. Some feel he was the victim of poor advice. One participant recalls, "There were four guys principally responsible: Abe Raskin and John Oakes of the New York Times were on the phone every day telling Lindsay what to do. Then there was [pollster] Lou Harris and [Liberal party chief] Alex Rose. They were the architects of that settlement. They were all smart guys who understood public relations, but not labor relations."

Today, one of those four advisers reflected that Lindsay's mistake was that he "surrendered" to the unions' demands. His view was that Lindsay should have drawn the line and summoned the troops to battle. That may be correct, but it presupposes that the public, like a mighty army, would march in step behind their leader. Yet by the thirteenth day of the strike the public—tired, inconvenienced, their work and life patterns disrupted—was the party most ready to "surrender."

11. April 30, 1966: The State Medicaid law is enacted.

Running for re-election in 1966, and playing the role of a "liberal," Nelson Rockefeller signed Medicaid into law, hailing it as "the most significant social legislation in three decades."

The significance should not be underestimated. Almost everyone was for Medicaid in 1966—Robert Kennedy, both houses of the State Legislature, labor, Republicans, and Democrats. It was the compassionate thing to do—and a classic case of good intentions and goals being subverted by poor thinking and slovenly legislation. The New York State Medicaid law promised free medical care to the poor, to senior citizens, and part of the middle class as well. The state was going to spend money—Rockefeller said "$90 million"—to subsidize medical care. But the state neglected to provide money or a plan to expand medical facilities and provide the beds, doctors, nurses, and technicians that would be necessary. Costs exploded as too many people chased too few doctors and facilities—making medical care prohibitively expensive for many New Yorkers. Not to mention what it would later do *to* our senior citizens in nursing homes and *for* venal private nursing-home operators.

The city's share of Medicaid costs is now greater than its share of welfare.

12. January 4, 1967: The city's Office of Collective Bargaining names an impasse panel to settle a pay-parity dispute.

In 1967, faced with a tough quarrel involving old and sensitive relationships—"parities"—within police ranks, and between police and fire pay scales, the city's Office of Collective Bargaining named an impasse panel to sort out the issues. There followed the city's breaking of a written agreement with the police, a lawsuit, appeals, rehearings, and a six-day police strike in 1971. Ultimately, the city lost a suit brought by the Patrolmen's Benevolent Association, and the financial consequences were great. "By the time other groups, like firemen and sanitationmen, came forward with their related demands," writes professor Raymond Horton in his book *Municipal Labor Relations in New York City*, "the cost to the city was considerable—estimated from $150 million to $215 million."

But the city paid another price for its parity debacle. The city had previously suffered strikes by its transit workers, its teachers, sanitationmen, welfare workers. But until January, 1971, it had been almost unthinkable that those responsible for public safety would strike. With that strike went another piece of the social fabric, encouraging citizens and investors alike to lose confidence in the city's future.

13. November 7, 1967: Voters reject a new State constitution

Voters who can remember back to 1967 may dimly recall a strident argument over the wisdom of repealing the so-called "Blaine Amendment" to the state constitution, which forbade state aid to parochial schools. Repeal of Blaine was part of an extensive revision worked out in a constitutional convention. The package was resoundingly defeated. But for the city of New York, which cast 56 per cent of its ballots against the revisions, the new constitution would have helped a great deal in other ways.

Article V, Section 25b of the proposed constitution called for the state to assume over a ten-year period the full cost of operating all courts in the city of New York. In the 1975–76 year the city's share of court costs is budgeted at $94.2 million.

Article X, Section 16 of the proposed constitution called for the state to assume over a ten-year period—10 per cent each year—the total cost of all city welfare. In 1967–68 the local cost for welfare was $267.2 million. By 1975–76 the local share of welfare and Medicaid costs had multiplied to more than $1 billion.

Article IX, Section 1d of the proposed constitution would have changed the city's state-school-aid formula. Instead of being based on attendance, as it now is (with the city's high rate of absenteeism), the formula would have been based on pupil registration, benefiting densely populated areas like the city.

14. November 5, 1968: The election of Richard Nixon

The name Nixon will be remembered for various perfidies—Watergate, Cambodia, Chile, Vietnam. But as far as the city's fiscal crisis is concerned, Nixon should be remembered as the president who in the words of urban historian Richard Wade, "abandoned the notion of compensatory spending for our cities and instead switched to per capita aid, which favored the burgeoning suburbs." Though in absolute numbers federal aid to the city grew incrementally during each of the years Nixon was president, by 1973–74 it decreased as a percentage of the city's budget—and it is certain that had a progressive been president, the city would have received considerably more support. Additionally, as the federal government cut back on matching grant programs, the city, in an attempt to continue those services, often overextended itself. "A critical series of decisions," argues a former deputy mayor, "was the acceptance of federal programs forced on us during the Johnson years. In the liberal euphoria over these programs too little attention was paid to the long-term costs of these programs."

15. March 18, 1969: John Lindsay announces his candidacy for reelection

Lindsay was in trouble, and he knew it. In February, 1968, he had suffered a massive, citywide sanitation strike in which he threatened to call out the National Guard. In a union town, labor leaders were calling him anti-labor. Even worse, in the wake of the September, 1968, teachers' strike over decentralization, many Jews—the city's largest and most powerful ethnic group—were openly calling the mayor anti-Semitic.

He had to try to rebuild an electoral coalition, to be more political. He hired a talented campaign manager, Richard Aurelio, and instructed his key aides to check important government decisions with Aurelio. If he was to win he had to do what most elected executives do: use his government powers to advance his campaign. Only John Lindsay had to do more. He was still a Republican in a town where that party is nearly extinct. And more he did.

"That was a year the mayor wanted labor peace," Lindsay's deputy budget director at the time, David Grossman, now recalls. It was the year, says Raymond Horton, "when John Lindsay stopped fighting with the unions and went to bed with them."

Before the 1969 election, lucrative new pension benefits had been awarded attendance teachers, sanitationmen, higher-education employees, police, firemen, and library teachers. Lindsay's re-election campaign would ultimately win the support of such powerful city unions as those of the state, county, and municipal employees and the sanitationmen. Albert Shanker, head of the teachers' union—who in 1968 spoke of Lindsay in terms that would make Mike Quill proud—remained neutral. The mayor's people considered this a pro-Lindsay posture. In 1970, the teachers were rewarded with an extravagant pension settlement.

Lindsay also used his budget for a series of manipulations to tide him through the election. He balanced his expense budget by counting $116.7-million in nonexistent revenues. He doubled expense moneys slipped into the capital budget. Playing Santa Claus, he reversed a long-held position and promised to hire more firemen; he also dangled overtime pay for policemen who worked a new night shift.

With the involuntary help of the taxpayers, and assisted by a brilliant campaign, the Liberal party, and a clown named Procaccino, Lindsay won—with 42 percent of the total vote.

16. June 18, 1971: Rockefeller signs an amendment to the Local Finance Law

New York State first resorted to budget notes in 1942 as a method of meeting emergency expenditure needs by borrowing against next year's revenues. The legislation spoke of "epidemic, riot, flood, storm, earthquake, or other unusal peril." Looking at New York City's recent fiscal history one would think that "epidemic," "earthquake," and "unusual peril" were annual events.

In 1971, in order to "balance" the city budget, city leaders got behind an overly optimistic forecast of how much federal aid the city could expect. When Congress hedged on revenue-sharing, the city got caught short by several hundred million dollars. Governor Rockefeller responded by signing into law an amendment to the Local Finance Law which, in effect, said, if New York City makes a mistake in its estimate of additional revenues from federal revenue sharing in fiscal 1971–72, not exceeding $100 million, and gets insufficient aid from the federal government, it can issue one-year budget notes. But if the city can't come up with this money by 1974 it would be permitted to ask the State Legislature for money to cover the budget notes, and the legislature "will make a first-instance appropriation." That is, it would lend the city the difference.

At that time, John Lindsay used this special power to issue $308 million of such notes to cover false revenue estimates. The legislature also permitted the city to repay these notes as late as July 31, 1974, on the presumption the city would repay a part each year. Instead, each year the city simply rolled over that debt. This takes us to May 30, 1974, a gubernatorial election year. In preference to prudence, Governor Malcolm Wilson and the legislature created the New York City Stabilization Reserve Corporation at the request of Mayor Beame to repay the budget notes of 1971–72.

The legislature then created the Stabilization Corporation to be a borrowing agency in order to borrow money to pay for the borrowings the city could not. In brief, this new agency was encouraged to borrow money to repay borrowed money—paying interest on interest. And digging the city in deeper and deeper until it faced a true "epidemic" in 1975.

17. June 19, 1973: The Board of Estimate and City Council approve Lindsay's 1973–74 expense budget.

It was a good year for wine but a lousy year for the city budget. It was an unusual budget in that it was shaped by both an outgoing mayor (Lindsay) and by a comptroller (Beame) who was to be the incoming mayor. Though Beame has repeatedly blamed the $1.5-billion deficit he says he inherited for much of the city's woes, as comptroller and mayoral frontrunner his fingerprints were all over the document. He attended breakfast meetings on June 11 and 15 with Lindsay to achieve a compromise toward what they called a "balanced budget." On June 18, 1973, City Hall issued a joint statement. "Agreement has been reached on a proposed 1973–74 Expense Budget by the Mayor, the Comptroller, the Board of Estimate and City Council leaders." The New York *Post* reported: "This was the first year in the past four that Lindsay and Beame practiced budget politics of consensus instead of confrontation."

Among their budget tricks were (1) the placing of $564 million of expense items in the city's capital budget, an increase of $290 million from the previous year; (2) the city ended at mid-year its existing subsidies of transit fares for schoolchildren and the elderly, pretending the need would disappear or that the state or federal government would bail the city out; (3) the City Council arbitrarily freed "revenues" of $148.5 million by, among other things, postponing the statutory repayment of $96 million to the "rainy day" fund; (4) Lindsay announced a deficit of $211 million and simply summoned the state to close it; (5) they made good a Beame campaign pledge by adding to the budget an authorization for 3,000 more cops, even though the city had at the time 2,250 police vacancies; (6) they approved a one-year roll-over of the $308 million in budget notes issues to cover the 1970–71 budget deficit.

A high official in the present comptroller's office calls that budget an example of outright fraud.

David Grossman, Lindsay's budget director at the time, described in a June, 1973, memo the importance of his and Lindsay's—and Beame's—budget for 1973–74: "It was not until recently—from June 30, 1973, to March, 1975—that the really sharp increase in short-term borrowing occurred and the market began to ask what was going on. In those two years, short-term debt went up by an astounding 138 per cent (from $2.5 billion to the current $6 billion level). During the same two years, the expense budget went up 19 per cent while the state and federal aid component rose by only 7 per cent. Small wonder, then, that the city ran into a crisis of confidence in March, 1975, and ceased to be able to sell its short-term debt.

What accounts for the very rapid growth in short-term borrowing in only two years? It would appear that the anwser lies mostly in the way in which the last two city budgets were constructed—built on hoped-for revenues that never arrived, on budgetary techniques that anticipated future revenues by borrowing cash in the present, and on a continuing roll-over of past deficits from year to year. . . . The current cash crisis is, in budgetary terms, the end result of a political process that saw the city adopt two successive budgets in which the hard issue of budget balance was avoided."

November 6, 1973: The election of Abe Beame

"The whloe disaster of the city is Beame," bitterly complains an official with the Citizens Budget Commission. "The people in the Budget Bureau are and have been his. The secret of his powers is his mastery of the Budget Bureau. If you take a look at the 'creative decisions' in the city, you have to stand in admiration. There is an unbelievable technical elegance that one has to admire. What led to Beame and Deputy Mayor Cavanagh's downfall was the fact that these two guys were unable to adjust to change in the new intergovernmental ball game we have. The city came to depend for 40 to 45 per cent of its budget on state and federal government funds. They could not shuffle these funds.

"The nature of the city's budget changed, but Beame did not adjust to the situation. He still continued to claim savings based on expenditures not made, and which never would have been made to begin with. The city claimed hundreds of million in savings on people it could not have hired. It was as if my washing machine broke and my wife got it repaired for $50. If I were Abe Beame I would claim a $250 saving since I didn't have to go out and buy a new washing machine."

Abe Beame did something like that in the spring of 1974 when he presented his 1974–75 budget. Rather than make painful cuts to balance his budget, he raised the already highest taxes in the nation by $44 million; he smuggled $722 million of expense items into his capital budget; borrowed $520 million through the creation of the Stabilization Reserve Corporation, to be repaid over ten years; raised some $280 million by advancing the date of sewer-rent collections and siphoning what he called "excess" pension earnings to meet the city's share of pension contributions. The city had increased its reliance on borrowed funds to cover insufficient current revenues, thus pushing off still larger debt payments to next year.

Besides his budget failures, Abe Beame's performance directly led to the undermining of confidence in his—and, therefore, the city's—credibility. At first, he blamed whatever budget problems he had on the $1.5-billion deficit he said he inherited from terrible John Lindsay. Then on December 2, 1974, he blamed City Comptroller Goldin's differing deficit estimates for the 9.5 per cent interest the city was forced to pay for short-term notes. Then, over the next two months, he separately announced what he called Phase One, Two, and Three of city layoffs. On February 1, he said layoffs had been averted because city unions were forgoing contractual rights. The mayor seemed to be saying that the current year's budget crisis was no more. On February 15, Beame projected a $1.68-billion budget gap for the next fiscal year. Then he announced layoffs that later did not materialize. He blamed Republicans in Washington. Then he blamed Albany. On May 29, standing in the well of the

Council Chamber before live television cameras, the mayor blamed the banks and "editorial columns" for a "conspiracy" to create "an atmosphere of doubt and uncertainty about New York's securities." On June 24, First Deputy Budget Director John J. Lanigan, a long-time Beame-Cavanagh associate, said, "I think there's a possibility we'll end up with a balanced budget" for the 1974–75 fiscal year. By July 7, the mayor was sitting calmly in his office and announcing that the fiscal crisis was "behind us." Like Nixon with Watergate, he had treated the city's fiscal crisis as a public-relations problem.

On March 24 he warned, "Nobody is going to tell me how to run the city." On June 10, the state Municipal Assistance Corporation was created. By July 18 Beame meekly told the MAC he would do "whatever is necessary" to win back the investors he had accused of "conspiracy" on May 29. By September, the State Legislature had passed a bill, a main purpose of which was to advertise to investors that Abe Beame was no longer in charge. He had been stripped of his budgetary powers, as the city—through the default of its leaders—had been stripped of representative government.

"Abe Beame could have done much more much earlier and paid much less," a high state official told me in July. "In fact, if the city had been willing to get honest with its figures last winter and had presented a two- or three-year fiscal plan and agreed to limit its borrowing, there could have been an agreement with the financial community and there would have been no need for Big MAC."

19. June 15, 1974: The Port Authority's 1962 covenant is repealed

In 1962 the Port Authority made a deal with the governors of New York and New Jersey. The authority agreed to take over and modernize the bankrupt and decaying trans-Hudson commuter tubes in return for winning the approval of the governors to build the World Trade Center. As an additional incentive, the legislatures of the two states passed covenants assuring the authority, together with its bondholders, that never again would it be required to assume any deficit mass-transit operation. Since mass-transit systems chronically lose money, this effectively took the authority out of the mass-transit business.

For years, critics of the Port Authority have lashed out at this failure to invest in mass transit. A leader in the fight to wrench the authority into helping finance mass transit was labor attorney Theodore Kheel, who said in the spring of 1974, "Repeal of the 1962 statutory covenant will in no way impair the security of Port Authority bondholders." He was backed by Governor Brendan Byrne of New Jersey, who signed the repeal on April 30. Then overwhelming majorities in both houses of the New York State Legislature passed the repeal. Governor Malcolm Wilson, switching from the support he had promised Nelson Rockefeller in the fall of 1973, hesitated in signing the measure. He was fearful, he said later, that his approval of the measure would "overturn a solemn pledge of the state." He was immediately attacked by fellow Republicans, by Kheel, by all the then-Democratic-candidates for governor, by the City Bar Association, by just about everyone in politics. Wilson had been warned that repeal would seriously undermine "investor confidence," words then foreign to most of us. Finally, on June 15, only minutes before the signing deadline—and knowing he faced a difficult November election—Governor Wilson relented and approved the measure.

Donna Shalala, a member of the MAC board, reports that in her dealings with bankers they often cite the repeal as undermining "confidence" in government securities. To investors the repeal served as a warning—despite assurances from the state and the Port Authority—that what the state giveth it can taketh away.

20. February 25, 1975: the New York State urban development corporation defaults.

The first sentence of UDC President Edward J. Logue's 64-page annual report for 1974 begins: "1975 can be a banner year. . . ." It was, of sorts.

On January 21, State Comptroller Arthur Levitt deplored yet again the "moral obligation" gimmick used by UDC and other agencies to avoid constitutionally required voter approval for state borrowing. He also blamed the banks for "cooperating with a vengeance" to reap profits from UDC. In succeeding days Governor Carey appointed task forces to study and seek to prevent the nation's most powerful housing agency from drowning in $1-billion in debts outstanding, and the $1-million per day it owed contractors. The agency had clearly overextended itself. After a series of frenetic meetings and touch-and-go negotiations with the banks, on February 26 the governor fashioned a bipartisan plan to provide refinancing and stave off the collapse of this important state agency. At the time everyone hailed the statesmanship exhibited by all sides. Largely overlooked was an event which took place the day before and seemed less significant. On February 25, New York State—rather than appropriating state moneys and perhaps raising taxes to cover $104.5 million in due notes—chose to default on UDC obligations for four weeks. Governor Carey double-talked, saying tht since these were short-term notes they "do not carry the moral obligation of the state."

Four weeks later the state made good on this money. But the damage had been done. UDC became the first major government agency since the Depression to become insolvent. As Richard Ravitch, the man Carey installed as Logue's successor, had warned on February 9, "People did business with the UDC—small businessmen, architects, civil-rights organizations—thinking they were doing business with the state of New York. The fact that they technically were not doesn't matter now." The message communicated to investors was that state moral obligations were not legal obligations. Like the Port Authority bond convenant, in the eyes of the investment community the state was breaking a contract. Said a Wall Street bond trader: "Why should I buy the moral obligations of immoral politicians?" The consequences were swift. The *Wall Street Journal* reported "public bonds fell an average of $15 for each $1,000 face amount." Within days New York City was forced to accept a then astronomical 8.69 percent interest rate on $537-million of bond-anticipation notes—up from 7 per cent two weeks before. In a joint statement Beame and Goldin said, "The recent default by the state Urban Development Corporation" has created an "unwarranted climate of suspicion in the marketplace." They charged that New York City taxpayers were being forced to pay for the mistakes of "another jurisdiction." The State Housing and Finance Agency postponed a scheduled note sale—made finally on April 23 for a record 9.6 per cent. By April, construction of more than $1 billion in nursing homes, hospitals, facilities for the handicapped, and other projects was held up for lack of investors. The municipal-bond market was going to hell. And the city of New York, the most flagrant violator of that market's rules, was thus set up to reap a whirlwind.

[From Reader's Digest, November 1975]

THE FISCAL FOLLIES OF NEW YORK CITY

(By Irwin Ross)

Last summer, New York City sanitation workers went on a wildcat strike that piled up 20,000 tons of garbage a day under the hot sun. Some 500 newly discharged policemen, in civilian attire, demonstrated outside City Hall and then blocked traffic at nearby Brooklyn Bridge, setting up barricades and letting air out of automobile tires. Fire fighters began reporting in sick in growing numbers.

These protests against massive layoffs were dramatic expressions of the financial crisis which had brought the nation's largest city close to bankruptcy. At the start of the new fiscal year, July 1, approximately 5000 police officers, 1800 fire fighters and 2900 sanitation workers had been sacked, with the total potentially swelling to more than 40,000 city employes.

Late in 1974, the news had emerged that the city's budget was running a deficit—estimated by the mayor at $430 million for the fiscal year, and at $650 million by the comptroller. The city put economies into effect, but nonetheless fear was voiced later that the city might default on its debt obligations—a catastrophe that had not occurred even in the Great Depression.

In May, Mayor Abraham Beame went to Washington to plead for federal assistance. The city needed a mere $1 billion before June 30 (it was already receiving $2.3 billion a year from Washington for a variety of programs). The mayor was eager to get a federal guarantee of the city's short-term notes to make them salable, or an outright purchase of city paper by the Federal Reserve banks.

Beame was turned down first by Secretary of the Treasury William Simon, then by President Gerald Ford, who noted that the city's "critical financial condition is not new but has been a long time in the making without being squarely faced."

New York State's Governor Hugh Carey appointed a top-level citizens' committee of financial and legal experts to come up with a solution to the city's cash problem. On June 10, the committee created a new state agency to rescue the city—the Municipal Assistance Corporation. Popularly known as "Big Mac," it was to provide the money to redeem short-term city debt coming due in July, August and September.

Big Mac's funds, in turn, were to come from its sale of $3 billion in bonds issued over a 90-day period; but it found surprising customer resistance to the issues in July and August, even at very high interest rates. Despite budget stringencies, mass lay-offs and wage roll-backs, investors obviously feared that New York had not been cured of its spend-thrift ways. Amid controversy and crisis, one thing could safely be predicted: New York's financial agonies would go on for months.

How had the city got into such a mess? The complex story is worth unraveling, for it provides a model of financial profligacy and short-sightedness that should point a moral to local governments everywhere. Fiscal delinquencies are by no means unique to New York, nor are financial crunches in this recession period. A survey of 50 representative cities, released last spring by the U.S. Conference of Mayors, indicated that the nation's urban centers as a whole would show a $5- to $8-billion fiscal gap in 1975.

Fringe Benefits. New York's crisis was precipitated by the combined impact of inflation and recession, which boosted the costs of city government while tax revenues fell. But, basically, the city had been spending too much for years and postponing payment by escalating borrowings—a situation that had been screened from the public. Treasury Secretary Simon's staff studies highlighted the gap. "What we found," he said, "was a complete lack of balance. Expenditures were increasing at a rate of 15 percent a year, while revenues were growing at only 8 percent a year."

New York may seem a cold and forbidding

place to outsiders, but it is actually open-handed to some of its residents and, especially, to its employes. For instance, the city maintains 18 municipal hospitals (where much care is provided free or for a nominal charge), compared to Chicago's one. In New York's vast City University system, full professors are among the highest paid in the country, and the great majority of its nearly 270,000 students pay no tuition. Elsewhere in the country, the public university systems are maintained by the state, but New York City paid $612 million in fiscal 1975 to continue a proud tradition of free higher education.

Welfare is another costly New York burden which, in most regions, devolves on the county and/or state. In the last fiscal year, the city paid $615 million of the bill, the state $780 million and the federal government $1.2 billion—a staggering total of almost $2.6 billion. And no wonder. Nearly one out of every eight of the city's 7.6 million population is on welfare!

The city's largess is most dramatically displayed in the pay scales and fringe benefits enjoyed by its vast army of employes, who before budget cuts last spring numbered 338,000—one civil servant for every 23 citizens. The last U.S. Bureau of Labor Statistics study shows that, as of April 1974, salary levels for skilled maintenance workers, such as electricians, painters and carpenters, averaged 46 to 76 percent above what was being paid in the private sector. The unions, whose strength grew steadily in the 1960s, today bargain for about 90 percent of city employes, helping to account for the surge in labor costs. Too often politicians, especially former Mayor John Lindsay, wanted to live in harmony with unions and gave in to excessive demands.

City employes who have done particularly well are teachers, 62,000 strong, and the police, fire, and sanitation workers, who altogether number more than 47,000. New York City teachers have recently been averaging $16,907 a year. Total earnings for patrolmen and fire fighters, after five years, came to $19,259, and for sanitation workers $15,731, until pay cuts went into effect on September 1.

New York City's greatest generosity, however, has been in fringe benefits, particularly in its pensions. They are the highest among major cities in several job categories and far higher than those in private industry. Traditionally, New York police and fire fighters have been able to retire at half-pay after 20 years' service, which was both a reward for hazardous duty and a way to replenish the forces with younger men. In the 1960s' union pension push, sanitation workers obtained the same 20-year privilege, as did jail guards, housing and transit police. Transit employes were able to get half-pay after 20 years once they reached the age of 50, teachers at age 55. Pension formulas were written in such a fashion that many city workers retiring after 30 years received more take-home pay, including Social Security benefits, than when they were on the job.

Pension costs have inevitably mounted—going from $361.3 million in 1965 to $1.2 billion in 1975. Moreover, a recent study by a state watchdog commission found that the use of fiscal gimmicks has led to $2 billion in underfunding since 1967, which means still higher costs in the future. One of the city's biggest pension plans, for example, based its funding on actuarial assumptions derived from the city's experience between 1908 and 1914— when retirees died much younger.

Disguised Reality. Beyond all this, New York's expenditures have ballooned because of waste and inefficiency. A New York Post exposé three years ago revealed that Highway Department street repairmen were working as little as two hours a day. There were promises of reform, and a year later the Post team took another look. Guess what? City paving crews had expanded their work stints to an average of 4½ hours a day.

Another example: In 1971, the Economic Development Council, made up of civic-minded businessmen, was invited by the city to furnish an analysis of the city's Human Resources Administration, which then had a budget of $2.3 billion to provide welfare and social services to New Yorkers. As the Council's annual report put it, the task force found that the HRA was "sadly lacking in the most basic tools of modern organization and management," and proposed reforms that potentially could have saved an estimated $356 million. In three years, the city saved $35.2 million, but a new HRA administrator was appointed by the newly elected Mayor Beame in 1974, and he virtually abandoned the reform project. Such are the vicissitudes of a municipal war on inefficiency.

The city's solution has been to live with an unbalanced budget while ostensibly balancing it. Although by law the city's budget has to be balanced before the start of each fiscal year on July 1, in recent years the balance has been purely formal, not to say fictional, with the help of a variety of bookkeeping techniques to disguise reality.

A memorandum prepared last spring in the office of Comptroller Harrison J. Goldin revealed that New York continuously overestimated revenues and underestimated expenses. Thus, in 1973–74, the city overestimated its general-tax-fund revenues by $248 million—far in excess of a reasonable margin of error. Short-term debt service, welfare expenses and collective-bargaining reserves were underestimated by $300 million. Later in the fiscal year, the shortfall had to be covered by massive short-term borrowing.

A favorite gimmick to inflate revenues has been to credit one year's budget with some of the next year's revenue. By changing the billing system for water charges, for instance, 18 months' revenue from this source was picked up on the books for fiscal 1974; and an additional $56 million was thus generated. But most of the money didn't actually come in until the following fiscal year—so the city had to borrow.

New York has long done much the same thing with what has been dubbed "end-of-year general-fund accruals"—the general fund being the catchall for taxes and fees apart from real-estate taxes. Prior to fiscal 1965, the general fund was on a cash basis: receipts were credited as received. In that year, however, the city began to estimate what it would be owed in the final quarter—even though most of the money would be received the next fiscal year—and borrow against these expected revenues. Year after year, the last quarter's revenues were overestimated by an ever-increasing percentage. With cost items, the city has often reversed the process—counting this year's expenses as next year's, especially when a fortnightly pay period overlapped two fiscal years.

Carefree Ways. Such manipulations have allowed New York to "balance" its budget each year and to paper over yawning gaps as the year proceeded. Meanwhile, short-term debt increased from $466.7 million on June 30, 1966, to $4.6 billion on June 30, 1975. Of this huge sum, fully $2.6 billion represented the city's accumulated yearly deficits, according to Comptroller Goldin. The interest on the deficit alone comes to more than $200 million a year.

In addition to its expense budget, the city has been misusing its capital budget of some $2 billion. As its name indicates, this budget is supposed to finance long-term construction projects through the sale of long-term bonds. Over the years, however, an increasing volume of operating expenses has been assumed by the capital budget—not only salaries for planning activities but even such items as library books, education equipment, manpower training and vocational education. The result: of a capital budget that came to nearly $2 billion, before it was pared down somewhat last summer, at least $500 million represented operating expenses.

New York City's crisis finally forced a halt to its fiscal follies. In September, the state legislature set up an Emergency Financial Control Board, which transferred ultimate authority over the city's financial policies from the city to the state City officials are on the board, but it will be dominated by the state. The board will exercise stern control over the city's expenditures and is empowered to end its fiscal malpractices. The hope is that such drastic measures will ultimately make city securities salable.

There may still be hope for the old town—but other cities should ponder the lessons of New York City's travail. To wit: bountiful municipal services must be limited by ability to pay; munificent pension plans make politicians popular and win union support, but the burden of financing such largess becomes enormous as the years roll on; budgetary manipulation may bring short-term magical solutions, but the ultimate price is a prohibitive debt load.

Any one of these practices is bad enough, but New York indulged in all of them. That's learning about bankruptcy the hard way.

Mr. HOLLINGS. A perusal of the Auletta article and the Senate hearings on the New York City financial crisis will show that the fundamental causes for New York's dilemma were barely touched upon at the Senate hearings and in large measure hardly debated in moving forward as we have in the Senate. I think the general atmosphere was reached in a peroration by the distinguished majority leader when he stated that in essence when it came to foreign aid, billions of dollars would whip through the Senate without hardly a murmur but when it came to our own people, we saw nothing but obstacles, nothing but roadblocks. Senator MANSFIELD stated that we treat our people "shabby" and the membership has lined up to make certain that they are not included in the category of treating their own "shabby."

The issue here is not the kind of treatment but the kind of leadership. I think the seasonal financing is misleading to the people of New York as well as a leaving of the wrong impression with the people of the cities of America. Noting from the Auletta analysis, any New York resident can see that in a sense it is not additional financing that is needed but rather a limitation of government largess. The need and the desirability is not an issue. I would love to provide free tuition for the students at the College of Charleston but I know my city cannot afford it. It is a simple proposition of paying your way and the way here is not to borrow more but to borrow less. I think it misleading to set this precedent. Can we provide seasonal financing for the financial dilemmas of urban America? They are all in trouble. We are in a recession and the Federal Government is in more trouble than any. The treatment called for is what is being adopted by the majority of mayors of America all over this land and that is a tightening of the belt. In contrast, we are putting our stamp of approval upon increased taxes to exacerbate the problems of New York rather than solve them. Other residents and other businesses will be forced away and we will again meet

with the same problem another day. We have momentarily saved the banks and the bond holders but the peoples' burdens have been increased. I think for our own that the time has come for government to be realistic. Fortunately, we are beginning these trends in the national Congress with our budget process. But unfortunately due to a Madison Avenue campaign, we have succumbed to the temptation of being political rather than realistic. Financial problems cannot be solved in this fashion and politically we are setting a bad example.

Mr. GLENN. Mr. President, in spite of some misgivings, I intend to vote for this conference report. It contains a number of extremely valuable provisions, and I think the conferees should be congratulated for their efforts. Most importantly it includes the loan moneys needed to prevent default of one of our great cities and to protect our national economy from the damage that would be done by that default.

I am critical of the report however in that it does not include an amendment passed by the Senate last week which would have added $6,900,000 to the operating budget of the Energy Research and Development Administration for research and development on fuel cell technology. While I understand the rational behind the decision to reject this provision, I regret that the conferees deleted that particular portion of the bill on which the Senate had clearly expressed its will.

The argument that has been made against the amendment is that it exceeds the money figure officially requested by ERDA for fuel cell research when that agency appeared before the Senate Appropriations Subcommittee on the Interior.

Although the Congress has now approved an Interior Appropriations bill which also exceeds that money figure, it was felt that to add to it the additional $6,900,000 that would have been appropriated by the amendment would violate orderly appropriations procedures. This is argued in spite of the fact that Robert Seamans, Administrator of ERDA, has now sent the Congress a letter recognizing that his original official request was deficient and stating that to fail to add the money specified in the amendment would be to possibly delay development of the program by as much as a year.

Certainly this argument has some appeal. If as a general rule we were to allow agencies within the executive branch to bypass our appropriations committees by sending up revised requests after those committees had finished their work, we would seriously impair the orderliness of our traditional appropriations procedures. Those procedures are sound ones and we ought not to look lightly upon departures from them.

Yet we must have sufficient flexibility to allow those departures where in special circumstances they are justified. In my view this is just such a circumstance. The agency has changed its position not on a whim but rather as a result of an intensive technology assessment of the fuel cell technology. Moreover, if we are to require a formal budget request on which hearings can be held prior to the next supplemental, we may seriously jeopardize the benefits to the country that can result from quick application of this technology. The circumstances are such that I believe we would not be creating a precedent by abandoning the rule for the exception in this instance.

Mr. President, decisions on whether to adhere to rules or to provide exceptions—on whether to opt for procedural consistency or flexibility aimed at some objective conceived to be in the public interest—invariably are judgment calls on which reasonable men can differ. While I do differ with the judgment of the conferees in this instance, I recognize their judgment as being that of reasonable men.

Mr. President, I would also term reasonable—as well as honorable—the decision of the distinguished majority whip to remove himself from the list of conferees on the bill. His action again demonstrates the integrity that has made him so effective as a leader of Senate Democrats and as a public servant generally. I look forward to working with him in the future on energy-related and other issues.

Again I commend him and the conferees for their work on the bill before us and urge my conferees to vote with me in favor of the conference report.

Mr. McCLELLAN. I have no further remarks on the bill.

I move that the conference report be adopted.

The PRESIDING OFFICER (Mr. MORGAN). The question is on agreeing to the motion of the Senator from Arkansas.

The conference report was agreed to.

Mr. McCLELLAN. Mr. President, I ask that the clerk state the amendments in disagreement.

The PRESIDING OFFICER. The amendments in disagreement will be stated.

The second assistant legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 5 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

GENERAL PROVISIONS

Section 610 under this head in the Agriculture and Related Agencies Appropriations Act, 1976, Public Law 94–122, is amended by striking "$37,452,000" and substituting in lieu thereof "$42,400,000" and by striking $9,363,000" and substituting in lieu thereof "$10,650,000".

Resolved That the House recede from its disagreement to the amendment of the Senate numbered 6 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

RELATED AGENCIES

Commodities Futures Trading Commission

The limitation of $20,000 for employment under 5 U.S.C. 3109 under this head in the Agriculture and Related Agencies Appropriation Act, 1976, (Public Law 94–122) as increased to $265,000.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 44 to the aforesaid bill, and concur therein with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert:

Provided further, That none of the funds in this bill shall be available for salaries or expenses of any employee of the Congressional Budget Office in excess of 193 staff employees: *Provided further,* That the Congressional Budget Office shall have the authority to contract without regard to section 5 of title 41 of the United States Code (section 3709 of the Revised Statutes, as amended).

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 59 to the aforesaid bill and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

Japan-United States Friendship Commission

Japan-United States Friendship Trust Fund

For the purpose of implementing the Japan-United States Friendship Act (Public Law 94–118), there is appropriated to the Japan-United States Friendship Trust Fund, to remain available until expended, $18,000,000 of the total funds payable to the United States pursuant to the Agreement Between Japan and the United States of America concerning the Ryukyu Islands and the Daito Islands, signed at Washington and Tokyo, June 17, 1971. Funds appropriated under title I of Public Law 94–121 for United States-Japan Friendship Activities are transferred to the Japan-United States Friendship Trust Fund for the purpose of implementing the Japan-United States Friendship Act (Public Law 94–118) and are to remain available until expended.

Mr. McCLELLAN. Mr. President, I move that the Senate concur en bloc in the amendments of the House to the amendments of the Senate numbered 5, 6, 44, and 59.

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 unanimous consent that the conference table, which was included by the House when it acted on the pending report on H.R. 10647, be incorporated in the record by reference. This table gives the complete results of the conference in tabular form and shows a comparison of the conference action with new budget authority made available in fiscal year 1976, the budget estimates for fiscal year 1976, the House bill and the Senate bill.

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

Mr. STONE addressed the Chair.

Mr. MANSFIELD. Are we finished with the conference report?

The PRESIDING OFFICER. Yes.

Mr. McCLELLAN. Perhaps someone should move for reconsideration.

Mr. MANSFIELD. I move to reconsider the vote by which the conference report was agreed to.

Mr. BROOKE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SENATE CONCURRENT RESOLUTION 79—DECLARING THE COMMITMENT OF THE SENATE TO COMPLY WITH THE CONGRESSIONAL BUDGET AND IMPOUNDMENT CONTROL ACT OF 1974, AND TO REDUCE SPENDING LEVELS

Mr. STONE. Mr. President, I send a Senate concurrent resolution to the desk and ask that it be received, printed, and placed on the calendar.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. Reserving the right to object, Mr. President, and I shall not object, I just call attention to the fact that this is a resolution dealing with the matter of spending under section 306 of the Budget Act which has been invoked earlier today to reach a very interesting parliamentary situation which was unexpected. This resolution, too, would seem to be subject to the same point of order. I do appreciate the Senator from Florida not seeking immediate consideration. He is only seeking to have it placed on the calender. On that basis, I will not object.

Mr. STONE. Mr. President, I thank the distinguished Senator from Michigan for myself and my cosponsors, Mr. MANSFIELD, Mr. MUSKIE, and Mr. BELLMON.

Mr. President, I ask unanimous consent that the concurrent resolution be received, printed, and placed on the calendar.

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

The concurrent resolution is as follows:

S. CON. RES. 79

Resolved by the Senate (the House of Representatives concurring), That Congress reaffirms its commitment to following the procedures established by the Congressional Budget and Impoundment Control Act of 1974. The Senate recognizes and approves the President's determination to reduce spending levels in order to reduce the national deficit, and requests that the President expedite his submission to the Congress of specific spending cut proposals. The Senate further declares its intention to seek to counterbalance future tax reductions enacted by the Congress by restricting the growth of spending.

ORDER FOR RECOGNITION OF SENATOR HELMS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of the three orders already entered for tomorrow, Mr. Helms be recognized for not to exceed 15 minutes.

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

ORDER FOR CONSIDERATION OF S. 2568 TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the conclusion of the four special orders for tomorrow morning, the Senate proceed to the consideration of S. 2568, a bill to amend the Atomic Energy Act of 1954, as amended, to revise a method for providing for public remuneration in the event of nuclear incidents.

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

ROLLCALL VOTES SET NEW SESSION RECORD

Mr. ROBERT C. BYRD. Mr. President, the highest number of rollcall votes for any previous Senate session in the history of our country, I am advised, was 594 rollcall votes.

Today we have set a new record by having now a total for this session of 595 rollcall votes.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, what is the order for convening on tomorrow?

The PRESIDING OFFICER. The Senate will be in recess until 9 a.m. tomorrow.

Mr. ROBERT C. BYRD. Very well.

ORDER FOR SENATE TO CONVENE DAILY AT 9 A.M. DURING THE REMAINDER OF THIS WEEK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate convene daily during the remainder of this week through Saturday—and I would hope that this order would be vitiated in due time—at the hour of 9 a.m.

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 9 a.m. tomorrow morning. After the two leaders or their designees have been recognized under the standing order, the following Senators will be recognized, each for not to exceed 15 minutes and in the order stated: Messrs. FANNIN, GARN, MCCLURE, and HELMS. On the conclusion of the aforementioned special orders, the Senate will proceed to the consideration of S. 2568, a bill to amend the Atomic Energy Act to revise the method of providing for public remuneration in the event of a nuclear incident. There is a time agreement on that measure. Rollcall votes may occur on amendments thereto and on passage of the bill.

It is anticipated that the Senate also tomorrow will take up H.R. 9852, and act to amend section 2 of the National Housing Act, to increase the maximum loan amounts for the purchase of mobile homes. Other measures on the calendar may also be called up, as well as conference reports, which are privileged matters, and rollcall votes may occur thereon.

RECESS UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until 9 a.m. tomorrow.

The motion was agreed to; and at 7:36 p.m., the Senate recessed until tomorrow, Tuesday, December 16, 1975, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate December 15, 1975:

IN THE FOREIGN SERVICE

Thomas O. Enders, of Connecticut, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Canada.

DEPARTMENT OF STATE

Samuel W. Lewis, of Texas, a Foreign Service officer of class 1, to be an Assistant Secretary of State.

IN THE EXPORT-IMPORT BANK

Stephen M. DuBrul, Jr., of New York, to be President of the Export-Import Bank of the United States, vice William J. Casey, resigned.

IN THE COAST GUARD

The following regular officers of the U.S. Coast Guard for promotion to the grade of lieutenant commander:

David A. Bailey	Richard B. Disharoon
Gary L. Hutchens	August E. Redlinger
Larry K. Carr	James M. Hough
Richard J. Dein, Jr.	James H. Thomson
Arthur A. Whiting III	John D. Derenthal
Alphons R. Melis III	Joe F. Poteat
Charles H. Lancaster	Edward K. Mullan
Warren W. Johns	Robert N. Lynch
Nevin A. Pealer	Kenneth N. Ryan
Donald R. Carlberg	Anatol Rozumny
Vernon O. Eschenburg	Eugene N. Tulich
William H. Boland	Robert C. Houle
Charles C. Rogers	James C. Arritt
Clinton W. Carter	Brian C. Sonner
Charles H. Cox	Thomas D. McLaughlin
William G. Wohlfarth	
Russell W. Badger	Rudolph L. Carpenter, Jr.
John R. Arnold	
William F. Collier	George P. Spaniol
Eugene M. Field, Jr.	Michael J. Barry
Stephen E. Goldhammer	Gerald W. Hayes
	Philip W. Wiseman
Ellis W. Grimes	Philip Souza
Lywald W. Hendricks	Anthony J. Maglione
Michael J. Schiehl	Leonidas M. Patton
Larry E. Sartin	John W. Spreter
Robert D. Bowen	David N. Russell
James L. Phaup	Louis A. Nataro
Robert G. Gipe	William K. Herrell
Howard A. Tawney	Roger E. Cowley
Michael F. Cook	Ronald R. Digennaro
John R. Neu	Ronald E. Meeker
Harry F. Schmecht	Bruce S. Washburn
Joseph P. Solometo, Jr.	James W. Szymanski
	James W. Calhoun
Roland W. Callis	David E. Cole
James T. Marcotte	Michael P. Lovett
George S. McDowell, Jr.	Robert A. Regan
	David C. Jeffrey
Raymond J. Pratte	Darryl R. Hannon
Robert A. Danforth	Craig T. Lynch
James T. Cushman	John W. Reiter
Wilburn K. Elkins	

The following reserve officers of the U.S. Coast Guard Reserve for promotion to the grade of lieutenant commander:

Harry C. Robertson, III	Richard S. Tweedie
	James R. White
Michael E. McKaughan	George P. White, Jr.
	Russell J. Collins
Robert T. Reining	Richard A. Knisely
Jon W. Young	Richard B. Cook
Charles M. Wrighter	Thomas W. Snook
Robert G. Frame	George J. Sepel
John H. Distin	Roger A. Brunell
Michael K. Bell	Richard M. Larrabee, III
Bruce Y. Arnold	
James H. Getman	Robert E. Williams
Carmond C. Fitzgerald	Paul J. Pluta
	Geoffrey C. Kline
John C. Voden	James L.
Michael F. Cowan	Barth, Jr.

Thomas J. Schaeffer
James F. Verplanck
Kenneth L. Ervin
Allen T. Maurer
Helnut E. Walter
Rex M. Wessling
Lawrence F. Cox, Jr.
David B. Lorenz
Chad B. Doherty
Ronald E. Beck
Robert T. Ritchie
Hebert D. Robinson, Jr.
Cecil T. Loter
Vidas Vilkas
Joseph F. Angelico
David M. Strasser
Timothy J. Wood
Thomas C. Greene
James R. Townley, Jr.
Gary J. E. Thornton
Robert E. White
David E. Prosser
Robert F. Riley, Jr.
John R. Painter
Douglas M. Miller
David H. Lyon
Robert E. Long
Drew R. Hamblin
David J. West
Stephen W. Clark
Jack A. Lang
Jerome C. Cobb, II
James L. MacDonald
Winston G. Churchill
Richard C. Motter
Robert W. Sitton
Bennett C. Osborne
James J. Shaw, Jr.
Terence T. Post
Terence M. O'Connell
Richard L. Zeidera
Leo B. Tyo
Roger D. Enstrom
Harvey B. Packard
Charles C. Boyer
John R. Hearn, Jr.
Brian C. Curtis
Mont J. Smith

The following regular officer of the U.S. Navy to be a permanent commissioned officer in the Regular Coast Guard in the grade of lieutenant:

Samuel R. Hardman

CONFIRMATIONS

Executive nominations confirmed by the Senate December 15, 1975:

Department of Defense

Richard A. Wiley, of Massachusetts, to be General Counsel of the Department of Defense.

Department of the Interior

H. Gregory Austin, of Colorado, to be Solicitor of the Department of the Interior.

Mining Enforcement and Safety Administration

Robert E. Barrett, of Pennsylvania, to be Administrator of the Mining Enforcement and Safety Administration.

Executive Office of the President

Michael B. Smith, of Massachusetts, U.S. negotiator on textile matters, for the rank of Minister.

Environmental Protection Agency

Andrew W. Breidenbach, of Ohio, to be an Assistant Administrator of the Environmental Protection Agency.

(The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.)

IN THE AIR FORCE

The following officer to be placed on the retired list in the grade indicated under the provisions of section 8962, title 10, of the United States Code:

To be lieutenant general

Lt. Gen. Brent Scowcroft, [redacted] FR (major general, Regular Air Force), U.S. Air Force.

The following officers for temporary appointment in the U.S. Air Force under the provisions of chapter 839, title 10 of the United States Code:

To be brigadier general

Col. Christopher S. Adams, Jr., [redacted] FR, Regular Air Force.

Col. Bernard Ardisana, [redacted] FR, Regular Air Force.

Col. William J. Becker, [redacted] FR, Regular Air Force.

Col. Emil N. Block, Jr., [redacted] FR, (major, Regular Air Force), U.S. Air Force.

Col. Robert M. Bond, [redacted] FR, Regular Air Force.

Col. Richard T. Boverie, [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. Donald J. Bowen, [redacted] FR, Regular Air Force.

Col. Bill V. Brown, [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. George M. Browning, Jr., [redacted] FR, Regular Air Force.

Col. John T. Buck, [redacted] FR (major, Regular Air Force), U.S. Air Force.

Col. Louis C. Buckman, [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. George C. Cannon, Jr., [redacted] FR, Regular Air Force.

Col. Gerald J. Carey, Jr., [redacted] FR, Regular Air Force.

Col. William E. Carson, [redacted] FR, Regular Air Force.

Col. Robert W. Clement, [redacted] FR, Regular Air Force.

Col. Philip J. Conley, Jr., [redacted] FR, Regular Air Force.

Col. James S. Creedon, [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. Harry J. Dalton, Jr., [redacted] FR, Regular Air Force.

Col. James E. Dalton, [redacted] FR, (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. Joseph B. Dodds, [redacted] FR, Regular Air Force.

Col. Jay T. Edwards III, [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. Herbert L. Emanuel, [redacted] FR, Regular Air Force.

Col. James C. Enney, [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. Harry Falls, Jr., [redacted] FR, Regular Air Force.

Col. Billy B. Forsman, [redacted] FR, Regular Air Force.

Col. Clyde H. Garner, [redacted] FR, Regular Air Force.

Col. Paul T. Hartung, [redacted] FR, Regular Air Force.

Col. William W. Hoover, [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. Robert E. Kelley, [redacted] FR (major, Regular Air Force), U.S. Air Force.

Col. George J. Kertesz, [redacted] FR, Regular Air Force.

Col. James E. Light, Jr., [redacted] FR, Regular Air Force.

Col. George C. Lynch, [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. Frederick L. Maloy, [redacted] FR, Regular Air Force.

Col. James H. Marshall, [redacted] FR, Regular Air Force.

Col. David M. Mullaney, [redacted] FR, Regular Air Force.

Col. Cornelius Nugteren, [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. Waymond C. Nutt, [redacted] FR, Regular Air Force.

Col. Earl T. O'Loughlin, [redacted] FR, Regular Air Force.

Col. John W. Ord, [redacted], Regular Air Force, Medical.

Col. Leighton R. Palmerton, [redacted] FR, Regular Air Force.

Col. John L. Piotrowski, [redacted] FR (major, Regular Air Force), U.S. Air Force.

Col.: James N. Portis, [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. John T. Randerson, [redacted] FR, Regular Air Force.

Col. Berry W. Rowe, [redacted] FR, Regular Air Force.

Col. John P. Russell, [redacted] FR, Regular Air Force.

Col. Walter C. Schrupp, [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. Richard V. Secord, [redacted] FR (major, Regular Air Force), U.S. Air Force.

Col. William L. Shields, Jr., [redacted] FR, Regular Air Force.

Col. Herman O. Thomson, [redacted] FR, Regular Air Force.

Col. Jack L. Watkins, [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. Charles E. Woods, [redacted] FR, Regular Air Force.

Col. Clifton D. Wright, Jr., [redacted] FR (major, Regular Air Force), U.S. Air Force.

IN THE ARMY

The following-named officer to be assigned to a position of importance and responsibility designated by the President under the provisions of title 10, United States Code, section 3066(a), in grade as follows:

To be lieutenant general

Maj. Gen. Eugene Joseph D'Ambrosio, [redacted] Army of the United States (colonel, U.S. Army).

Lt. Gen. John W. Vessey, Jr., [redacted], U.S. Army, for appointment as senior U.S. Army member of the Military Staff Committee of the United Nations, under the provisions of title 10, United States Code, section 711.

The Army National Guard officer named herein for appointment as a Reserve commissioned officer of the Army under the provisions of title 10, United States Code, sections 593(a) and 3392:

To be major general

Brig. Gen. Salvador Monserrate Padilla, [redacted].

IN THE AIR FORCE

Air Force nominations beginning Maj. William D. Bagge, to be lieutenant colonel, and ending Maj. John E. Worm, to be lieutenant colonel, which nominations were received by the Senate and appeared in the Congressional Record on November 10, 1975.

Air Force nominations beginning Joseph D. Abate, to be major, and ending Alvin J. Wooten, to be major, which nominations were received by the Senate and appeared in the Congressional Record on November 10, 1975.

Air Force nominations beginning Charles D. Ridgley, to be first lieutenant, and ending William K. McRaney, to be lieutenant colonel, which nominations were received by the Senate and appeared in the Congressional Record on November 14, 1975.

IN THE ARMY

Army nominations beginning Billy J. Abel, to be colonel, and ending William R. Wahl, to be lieutenant colonel, which nominations were received by the Senate and appeared in the Congressional Record on November 10, 1975.

IN THE NAVY

Navy nominations beginning Dean Allen Ablowich, to be commander, and ending Barbara Mary Williams, to be commander, which nominations were received by the Senate on November 26, 1975, and referred and appeared in the Congressional Record on December 1, 1975.

IN THE MARINE CORPS

Marine Corps nominations beginning Robert E. Akins, to be lieutenant colonel, and ending Judith A. Sternburg, to be lieutenant colonel, which nominations were received by the Senate and appeared in the Congressional Record on November 10, 1975.

Marine Corps nominations beginning Bobby R. Johnson, to be second lieutenant, and ending Robert C. Tekampe, to be second lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on November 14, 1975.

HOUSE OF REPRESENTATIVES—*Monday, December 15, 1975*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Fear not: for, behold, I bring you good tidings of great joy, which shall be to all people.—Luke 2: 10.

Our Father God, who art ever gracious and ever seeking to lead Thy children in right ways, come Thou anew into the hearts of the Members of this House of Representatives. Strengthen them for the tasks of this day and guide them as they labor for the good of our beloved country.

May the glory of Advent enter our minds, lifting us to the realm where love rules, peace reigns, and joy is supreme. Grant that Thy power and Thy love may so renew us that we may be born again to a better life on a higher plane for greater ends. Help us to live through these days with hearts of compassion, deeds of kindly service, and the spirit of good will toward all mankind.

In the spirit of Him who gives life to all 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. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 4287. An act to provide for additional law clerks for the judges of the District of Columbia Court of Appeals; and

H.R. 10035. An act to establish the Judicial Conference of the District of Columbia.

The message also announced that the Senate agrees to the amendments of the House with amendments to a bill of the Senate of the following title:

S. 322. An act entitled the Hells Canyon National Recreation Area Act.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1136. An act to authorize appropriations for increased investigation and prosecution by the Federal Trade Commission and the Department of Justice of unfair methods of competition, restraints of trade, and other violations of the antitrust laws, and for other purposes.

S. 1267. An act to expand competition, provide improved consumer services, strengthen the ability of financial institutions to adjust to changing economic conditions, and improve the flow of funds for mortgage credit; and

S. 2498. An act to amend the Small Business Act to transfer certain disaster relief functions of the Small Business Administration to other Federal agencies, to establish a National Commission on Small Business in America, and for other purposes.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

DECEMBER 12, 1975.

Hon. CARL ALBERT,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: Pursuant to the permission granted on December 12, 1975, the Clerk has received this date the following messages from the Secretary of the Senate:

That the Senate passed H.J. Res. 733, a Joint Resolution making further continuing appropriations for the fiscal year 1976, and for other purposes;

That the Senate agreed to the amendments of the House of Representatives to the amendments of the Senate numbered 25, 28, 30, 51, and 52 to the Bill H.R. 8122.

With kind regards, I am,

Sincerely,

EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.

CONSENT CALENDAR

The SPEAKER. This is the day for the call of the Consent Calendar. The Clerk will call the first bill on the Consent Calendar.

PROVIDING FOR DISPOSITION OF FUNDS TO PAY JUDGMENT IN FAVOR OF COWLITZ INDIANS

The Clerk called the bill (H.R. 5090) to provide for the disposition of funds appropriated to pay a judgment in favor of the Cowlitz Tribe of Indians in Indian Claims Commission docket No. 218 and for other purposes.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. McKAY. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Utah?

There was no objection.

W. R. POAGE FEDERAL BUILDING

The Clerk called the bill (H.R. 9348) to name a building in Temple, Tex., as the "W. R. Poage Federal Building."

There being no objection, the Clerk read the bill as follows:

H.R. 9348

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the building to be constructed in Temple, Texas, and leased by the Administrator of General Services for use by the Federal Government is hereby designated as the "W. R. Poage Federal building". Any reference in any law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the W. R. Poage Federal building.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AMENDING THE ACT OF JULY 7, 1970, AUTHORIZING APPROPRIATIONS TO THE SECRETARY OF INTERIOR WITHOUT REFERENCE TO AGENCIES INVOLVED

The Clerk called the Senate bill (S. 1922) to amend the act of July 7, 1970 (84 Stat. 409), to authorize appropriations to the Secretary of the Interior without reference to the agencies involved.

The SPEAKER. Is there objection to the present consideration of the Senate bill?

Mr. McKAY. Mr. Speaker, I ask unanimous consent that the Senate bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Utah?

There was no objection.

EXTENDING MEDICAL BENEFITS TO SURVIVORS OF ANY VETERAN WHO AT TIME OF DEATH WAS SUFFERING FROM A TOTAL AND PERMANENT SERVICE-CONNECTED DISABILITY

The Clerk called the bill (H.R. 1547) to amend title 38 of the United States Code in order to extend medical benefits to the survivors of any veteran who at the time of death was suffering from a total and permanent service-connected disability.

The SPEAKER. Is there objection to the present consideration of the bill?

PARLIAMENTARY INQUIRY

Mr. JOHNSON of Pennsylvania. Reserving the right to object, Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. JOHNSON of Pennsylvania. Are these last three bills, H.R. 1547, S. 1922, and H.R. 9348, eligible for consideration today?

The SPEAKER. The Chair will announce that this is the last bill eligible on the Consent Calendar.

Mr. JOHNSON of Pennsylvania. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the present consideration of the bill?

There being no objection, the Clerk read the bill, as follows:

H.R. 1547

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 613(a) of title 38, United States Code, is amended—

(1) by striking out "and" at the end of clause (1);

(2) by inserting ", and" at the end of clause (2); and

(3) by adding immediately after clause (2) the following new clause:

"(3) the widow or child of a veteran who, at the time of death, had a total disability, permanent in nature, resulting from a service-connected disability".

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise in support of H.R. 1547, which extends medical benefits to certain widows and children who are not in-

cluded under the CHAMPVA program, but in my view are equally entitled.

The CHAMPVA program was created by Public Law 93–82, the Veterans Health Care Expansion Act of 1973. It provided for the medical care of the wives and children of the veterans suffering from a permanently and totally disabling service-connected disability, and for the widows and children of the veteran whose death resulted from it.

This stringent requirement with regard to widows and children resulted in a loss of medical care benefits in those instances where the veteran's death did not result from his service-connected disability. There is something incongruous in a law that takes benefits away from the dependents of a veteran, following his death, to which they were entitled during his lifetime.

Medical care for the dependents of these seriously disabled veterans was bestowed in recognition of the sacrifices that were made. With the death of the veteran, the sacrifice does not diminish, neither should the entitlement to medical care for their dependents.

I urge my colleagues to give this bill favorable consideration.

Mr. SATTERFIELD. Mr. Speaker, H.R. 1547 will extend medical benefits under the CHAMPVA program to survivors of any veteran, who at time of death, was suffering from a total and permanent service-connected disability.

This legislation is considered necessary to correct a technical oversight in legislation passed by the 93d Congress when the CHAMPVA program was authorized.

The law, as currently worded, provides medical care for the wife or child of any veteran who has a total disability, permanent in nature, resulting from a service-connected disability. It also provides medical care for the widow or child of any veteran who died as a result of a service-connected disability. This means that the wife or child who currently may be eligible for medical care by reason of the veteran having a total disability, permanent in nature, resulting from a service-connected disability, loses entitlement in the event the veteran dies of a nonservice-connected cause.

This was not the intent of Congress in passing the original CHAMPVA legislation.

H.R. 1547 would provide for the widow or child of a veteran who died as a result of a non-service-connected cause, while a total and permanent service-connected disability was in existence, to receive the same kind of treatment under the CHAMPVA program, as the survivors of a former serviceman do under the CHAMPUS program.

Enactment of H.R. 1547 would result in an estimated annual cost of the Veterans' Administration of approximately $56,934 which is within the budget ceiling established for veterans' benefits and services in the second concurrent congressional budget resolution.

The administration favors this legislation.

Mr. Speaker, the committee on Veterans' Affairs unanimously urges passage of H.R. 1547.

Mr. O'BRIEN. Mr. Speaker, I rise in support of H.R. 1547, a bill which extends medical benefits to the survivors of any veteran who at the time of death was suffering from a total and permanent service-connected disability.

Section 613(a), title 38, United States Code, as currently worded, provides medical care for the widow or child of a veteran who died as a result of a service-connected disability. Therefore, a veteran's survivors, who were eligible for medical care by reason of the veteran having a total disability, permanent in nature, resulting from a service-connected disability, would lose that entitlement in the event the veteran dies of a non-service-connected cause.

Mr. Speaker, we have always accorded the veteran who has a service-connected total disability special recognition and special assistance for the sacrifices he and his family have made. We know that a veteran so rated has a reduced earning capacity and that his survivors are denied an economic status others, more fortunate, have established.

H.R. 1547 will allow those eligible to continue to receive medical care under the CHAMPVA program in line with that applicable to the survivors of former servicemen under the CHAMPUS program, upon which it was based.

I strongly urge my colleagues to support this worthwhile legislation.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The SPEAKER. This concludes the call of the eligible bills on the Consent Calendar.

CONFERENCE REPORT ON S. 1281, HOME MORTGAGE DISCLOSURE ACT OF 1975

Mr. REUSS submitted the following conference report and statement on the Senate bill (S. 1281) to improve public understanding of the role of depository institutions in home financing:

CONFERENCE REPORT (H. REPT. NO. 94–726)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1281) to improve public understanding of the role of depository institutions in home financing, 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:

TITLE I—REGULATION OF INTEREST RATES

SEC. 101. Section 7 of the Act of September 21, 1966 (Public Law 89–597), is amended by striking out "December 31, 1975" and inserting in lieu thereof "March 1, 1977".

SEC. 102. (a) An interest rate differential for any category of deposits or accounts which is in effect on December 10, 1975, between (1) any bank (other than a savings bank) the deposits of which are insured by the Federal Deposit Insurance Corporation and (2) any savings and loan, building and loan, or homestead association (including cooperative banks) the deposits or accounts of which are insured by the Federal Savings and Loan Insurance Corporation or any mutual savings bank as defined in section 3(f) of the Federal Deposit Insurance Act (12 U.S.C. 1813(j)) may not be eliminated or reduced unless—

(A) written notification is given by the Board of Governors of the Federal Reserve System to the Congress; and

(B) the House of Representatives and the Senate approve, by concurrent resolution, the proposed elimination or reduction of the interest rate differential.

(b) In the case of the elimination or reduction of any interest rate differential under subsection (a) with respect to any category of deposits or accounts between (1) any bank (other than a savings bank) the deposits of which are insured by the Federal Deposit Insurance Corporation and (2) any savings and loan, building and loan, or homestead association (including cooperative banks) the deposits or accounts of which are insured by the Federal Savings and Loan Insurance Corporation or any mutual savings bank as defined in section 3(f) of the Federal Deposit Insurance Act (12 U.S.C. 1813(f)), the maximum rate of interest which shall be established for such category of deposits for banks (other than savings banks) the deposits of which are insured by the Federal Deposit Insurance Corporation shall be equal to the highest rate of interest which savings and loan associations the deposits or accounts of which are insured by the Federal Savings and Loan Insurance Corporation were permitted to charge for such category of deposits immediately prior to the elimination or reduction of such interest rate differential.

TITLE II—ELECTRONIC FUND TRANSFERS

SEC. 201. Section 203(b) of title II of the Act of October 28, 1974 (Public Law 93–495), is amended by—

(1) striking out "within one year of its findings and recommendations" and inserting in lieu thereof "within one year of the date of the confirmation by the Senate of the Chairperson or the appointment by the President of an acting Chairperson"; and

(2) striking out "not later than two years after the date of enactment of this Act" and inserting in lieu thereof "not later than two years after the date of the confirmation by the Senate of the Chairperson or the appointment by the President of an acting Chairperson".

TITLE III—HOME MORTGAGE DISCLOSURE

SHORT TITLE

SEC. 301. This title may be cited as the "Home Mortgage Disclosure Act of 1975".

FINDINGS AND PURPOSES

SEC. 302. (a) The Congress finds that some depository institutions have sometimes contributed to the decline of certain geographic areas by their failure pursuant to their chartering responsibilities to provide adequate home financing to qualified applicants on reasonable terms and conditions.

(b) The purpose of this title is to provide the citizens and public officials of the United States with sufficient information to enable them to determine whether depository institutions are fulfilling their obligations to serve the housing needs of the communities and neighborboods in which they are located and to assist public officials in their determination of the distribution of public sector investments in a manner designed to improve the private investment environment.

(c) Nothing in this title is intended to, nor shall it be construed to, encourage unsound lending practices or the allocation of credit.

DEFINITIONS

SEC. 303. For purposes of this title—

(1) the term "mortgage loan" means a loan which is secured by residential real property or a home improvement loan;

(2) the term "depository institution" means any commercial bank, savings bank, savings and loan association, building and loan association, or homestead association (including cooperative banks) credit union which makes federally related mortgage loans as determined by the Board;

(3) the term "Board" means the Board of Governors of the Federal Reserve System; and

(4) the term "'Secretary" means the Secretary of Housing and Urban Development.

MAINTENANCE OF RECORDS AND PUBLIC DISCLOSURE

SEC. 304. (a)(1) Each depository institution which has a home office or branch office located within a standard metropolitan statistical area, as defined by the Office of Management and Budget shall compile and make available, in accordance with regulations of the Board, to the public for inspection and copying at the home office, and at least one branch office within each standard metropolitan statistical area in which the depository institution has an office the number and total dollar amount of mortgage loans which were (A) originated, or (B) purchased by that institution during each fiscal year (beginning with the last full fiscal year of that institution which immediately preceded the effective date of this title).

(2) The information required to be maintained and made available under paragraph (1) shall also be itemized in order to clearly and conspicuously disclose the following:

(A) The number and dollar amount for each item referred to in paragraph (1), by census tracts, where readily available at a reasonable cost, as determined by the Board, otherwise by ZIP code, for borrowers, under mortgage loans secured by property located within that standard metropolitan statistical area.

(B) The number and dollar amount for each item referred to in paragraph (1) for all such mortgage loans which are secured by property located outside that standard metropolitan statistical area.

For the purpose of this paragraph, a depository institution which maintains offices in more than one standard metropolitan statistical area shall be required to make the information required by this paragraph available at any such office only to the extent that such information relates to mortgage loans which were originated or purchased by an office of that depository institution located in the standard metropolitan statistical area in which the office making such information available is located.

(b) Any item of information relating to mortgage loans required to be maintained under subsection (a) shall be further itemized in order to disclose for each such item—

(1) the number and dollar amount of mortgage loans which are insured under title II of the National Housing Act or under title V of the Housing Act of 1949 or which are guaranteed under chapter 37 of title 38, United States Code;

(2) the number and dollar amount of mortgage loans made to mortgagors who did not, at the time of execution of the mortgage, intend to reside in the property securing the mortgage loan; and

(3) the number and dollar amount of home improvement loans.

(c) Any information required to be compiled and made available under this section shall be maintained and made available for a period of five years after the close of the first year during which such information is required to be maintained and made available.

ENFORCEMENT

SEC. 305. (a) The Board shall prescribe such regulations as may be necessary to carry out the purposes of this title. These regulations may contain such classifications, differentiations, or other provisions, and may provide for such adjustments and exceptions for any class of transactions, as in the judgment of the Board are necessary and proper to effectuate the purposes of this title, and prevent circumvention or evasion thereof, or to facilitate compliance therewith.

(b) Compliance with the requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act in the case of—

(A) national banks, by the Comptroller of the Currency;

(B) member banks of the Federal Reserve System, other than national banks, by the Board;

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and mutual savings banks as defined in section 3(f) of the Federal Deposit Insurance Act (12 U.S.C. 1813(f)) and any other depository institution not referred to in this paragraph or paragraph (2) or (3) of this subsection, by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 5(d) of the Home Owners' Loan Act of 1933, section 407 of the National Housing Act, and sections 6(i) and 17 of the Federal Home Loan Bank Act, by the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation), in the case of any institution subject to any of those provisions; and

(3) the Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any credit union.

(c) For the purpose of the exercise by any agency referred to in subsection (b) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (b), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law.

RELATION TO STATE LAWS

SEC. 306. (a) This title does not annul, alter, or affect, or exempt any State chartered depository institution subject to the provisions of this title from complying with the laws of any State or subdivision thereof with respect to public disclosure and recordkeeping by depositor institutions, except to the extent that those laws are inconsistent with any provision of this title, and then only to the extent of the inconsistency. The Board is authorized to determine whether such inconsistencies exist. The Board may not determine that any such law is inconsistent with any provision of this title if the Board determines that such law requires the maintenance of records with greater geographic or other detail than is required under this title, or that such law otherwise provides greater disclosure than is required under this title.

(b) The Board may by regulation exempt from the requirements of this title any State chartered depository institution within any State or subdivision thereof if it determines that, under the law of such State or subdivision, that institution is subject to requirements substantially similar to those imposed under this title, and that such law contains adequate provisions for enforcement. Notwithstanding any other provision of this subsection, compliance with the requirements imposed under this subsection shall be enforced under—

(1) Section 8 of the Federal Deposit Insurance Act in the case of national banks, by the Comptroller of the Currency; and

(2) Section 5(d) of the Home Owners' Loan Act of 1933 in the case of any institution subject to that provision, by the Federal Home Loan Bank Board.

RESEARCH AND IMPROVED METHODS

SEC. 307. (a)(1) The Federal Home Loan Bank Board, with the assistance of the Secretary, the Director of the Bureau of the Census, the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and such other persons as the Federal Home Loan Bank Board deems appropriate, shall develop, or assist in the improvement of, methods of matching addresses and census tracts to facilitate compliance by depository institutions in as economical a manner as possible with the requirements of this title.

(2) There is authorized to be appropriated such sums as may be necessary to carry out this subsection.

(3) The Federal Home Loan Bank Board is authorized to utilize, contract with, act through, or compensate any person or agency in order to carry out this subsection.

(b) The Federal Home Loan Bank Board shall recommend to the Committee on Banking, Currency and Housing of the House of Representatives and the Committee on Banking, Housing and Urban Affairs of the Senate such additional legislation as the Federal Home Loan Bank Board deems appropriate to carry out the purpose of this title.

STUDY

SEC. 308. (a) The Board, in consultation with the Secretary of Housing and Urban Development, is authorized and directed to carry out a study to determine the feasibility and usefulness of requiring depository institutions located outside standard metropolitan statistical areas, as defined by the Office of Management and Budget, to make disclosures comparable to those required by this title.

(b) A report on the study under this section shall be transmitted to the Congress not later than three years after the date of enactment of this title.

EFFECTIVE DATE

SEC. 309. This title shall take effect on the one hundred and eightieth day beginning after the date of its enactment. Any depository institution which has total assets as of its last full fiscal year of $10,000,000 or less is exempt from the provisions of this title.

TERMINATION OF AUTHORITY

SEC. 310. The authority granted by this title shall expire four years after its effective date.

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 bill, and agree to the same.

HENRY REUSS,
FERNAND J. ST GERMAIN,
FRANK ANNUNZIO,
WM. BARRETT,
JERRY M. PATTERSON,
Managers on the Part of the House.

WILLIAM PROXMIRE,
JOHN SPARKMAN,
HARRISON WILLIAMS,
T. J. MCINTYRE,
ALAN CRANSTON,
EDWARD W. BROOKE,
BOB PACKWOOD,
Managers on the Part of the Senate.

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. 1281) to improve public understanding of the role of depository institutions in home financing, 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 amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill. The House amendment, the Senate bill and the substitute agreed to in conference are noted below except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I

The House amendment provided for an extension of Regulation Q until December 31, 1977. The term "Regulation Q" refers to the authority by which the various Federal financial regulatory agencies set interest rate ceilings on deposits in financial institutions under their respective jurisdictions. The Senate bill had no provision. The Senate receded to the House with an amendment providing for an extension of Regulation Q until March 1, 1977.

The House amendment provided that an interest rate differential of not less than one-quarter of one percent be maintained in favor of deposits in thrift institutions. The amendment further provided that the Federal financial regulatory agencies take no action to eliminate or lessen any such differential in existence on the date of enactment except that such differential may, upon a finding of competitive disadvantage be lessened or eliminated for selected geographic areas and by category of accounts.

The Senate bill had no provision. The House receded to the Senate.

The House amendment provided that there could be no lessening or eliminating of the differential by the regulatory agencies upon a finding of competitive disadvantage unless 45-day prior notification be given by the Board of Governors of the Federal Reserve System to the respective Banking Committees of both the House and the Senate and that neither Committee, within such 45-day period, disapprove by resolution the proposed elimination or lessening of the differential.

The Senate bill contained no provision. The Senate receded to the House with an amendment that any lessening or elimination of the differential proposed by the Federal financial regulatory agencies could take effect only upon the adoption of a concurrent resolution by both the Senate and the House of Representatives approving such proposal. The Conferees intend that this provision shall in no way restrict the present authority of the Federal financial regulatory agencies to increase deposit rate ceilings under Regulation Q as appropriate.

The House amendment provided that in any case where the differential is lessened or eliminated with regard to any category of account, the rate payable by all depository institutions on such category of account shall be the highest rate permitted under Regulation Q for that category of account.

The House amendment provided that for the period during which Regulation Q is extended under this Act, the Federal financial regulatory agencies shall study the impact of expanded lending and investment powers authorized for State-chartered thrift institutions on the housing portfolios of such institutions with special emphasis upon possible disintermediation effects.

The Senate bill had no provision. The House receded to the Senate.

TITLE II

The House amendment provided that the interim and final reports of the National Commission on Electronic Fund Transfers be submitted within one and two years, respectively, from the date of the confirmation by the Senate of the Chairperson. The Senate had no provision. The Senate receded to the House.

The House amendment further required an additional report to be submitted to the respective House and Senate Banking Committees within six months after enactment. The Senate bill had no provision. The House receded to the Senate.

TITLE III

Findings and purpose

The House amendment contains a finding that depository institutions have sometimes contributed to the decline of certain geographic areas by failing to provide home mortgage financing on reasonable terms to qualified applicants. The Senate provision is somewhat narrower and implies a connection between neighborhoods from which deposits are received and neighborhoods to which loans are made. The conference report contains the House provision.

The House amendment provides that the purpose is to enable citizens to determine whether depository institutions are fulfilling their obligations to serve housing credit needs of the affected areas and to help public officials determine public sector investments. The Senate provision contains broader language indicating an obligation by lenders to serve the housing needs of their communities. The conference report adopts the Senate provision, and also incorporates the House language indicating an additional purpose to assist public officials in their determination of public sector investments.

The House amendment contains a provision not included by the Senate that nothing in this title shall be construed to encourage unsound lending practices or the allocation of credit. The legislative history indicates a similar intent on the part of the Senate. The conference report adopts the House provision.

Definitions

The House amendment defines a mortgage loan as a loan secured by residential real property, or a home improvement loan. The Senate definition includes only "Federally related" mortgage loans other than temporary financing as defined under Section 3 of the Real Estate Settlement Procedures Act of 1974. The conference report adopts the broader house provision, which will provide information on multiple as well as single family mortgage loans, and also home improvement loans.

The House and Senate both included within the definition of a depository institution, a bank, a savings bank, or a savings and loan association. The Senate bill also included credit unions; the House amendment added homestead associations (including cooperative banks.) The House receded to the Senate provision with an amendment to include homestead associations (including cooperative banks).

The conference report includes the House provision defining "Board" as the Board of Governors of the Federal Reserve, and "Secretary" as the Secretary of Housing and Urban Development. There was no comparable Senate provision.

Maintenance of public records and public disclosure

The Senate bill required information to be available for inspection at every branch of an institution located within a standard metropolitan statistical area. In addition to mutual savings banks, this includes non-Federally insured savings and loan associations. The conference report includes the Senate provision extending coverage to all non-Federally insured institutions, but adopts the House provision specifying that in the case of such institutions compliance shall be enforced by the FDIC.

The Conference Report includes a provision in the Senate bill but not in the House amendment providing that the National Credit Union Administration shall enforce compliance in the case of credit unions.

Relation to State laws

The Senate bill provided that this legislation does not exempt any "person" otherwise subject to state or local laws regarding recordkeeping and disclosure by depository institutions except to the extent of inconsistency with the provisions of this Act, and then only to the extent of the inconsistency, with the provision that the Board shall determine whether such inconsistencies exist. The Senate's intent was to subject all depository institutions in a jurisdiction to the same mortgage disclosure law, whether State or Federal, depending on which offered a greater degree of disclosure of mortgage information.

The House amendment provided an identical process for determining the inconsistency between state and Federal law, but limited the optional exemption from this Act to state chartered institutions. Under the House language, a state-chartered institution could be granted an exemption from this Act if the Board determined that the law of the state or subdivision afforded equal or greater disclosure, but in no case could a Federally chartered institution be granted an exemption from this Act. The intent of the House provision is that in the area of public disclosure of mortgage lending statistics, this Act shall apply to all depository institutions unless an exemption is granted by the Board, in which case state-chartered institutions would be subject to the state or local law to the extent of the exemption, but Federally chartered institutions would continue to follow the requirements of this Act. The conferees understand that for the purposes of exemption authority granted to the Board, the term state law shall include state regulations which carry the force of law.

The Senate conferees regard the House provision concerning Federal pre-emption as an exception to the pre-emption provisions of other consumer finance laws, including the Truth in Lending and the Fair Credit Billing Acts, which contain provisions similar to the Senate provisions of S. 1281.

In the case of mortgage disclosure, however, the conferees on the part of the House strongly believe that subjecting a Federally chartered institution to state law would threaten the dual banking system.

With the understanding that this provision goes only to the narrow area of geographical disclosure of mortgage lending statistics, the Senate conferees agreed to the House provision, which is included in the conference report.

Studies

Both versions provided for a number of studies. The Conference Report included the Senate provision for a study to be carried out by the Federal Reserve Board to determine the feasibility and usefulness of requiring depository institutions located outside metropolitan areas to be subject to the requirements of this Act.

The Conference report also includes provisions contained in the House amendment requiring the concerned Federal regulatory agencies to work with the Census Bureau to develop methods of matching addresses with census tracts to facilitate compliance with this Act, and requiring the Federal Home Loan Bank Board to recommend to the Bank-

ing committees of the Congress such additional legislation deemed appropriate.

The Senate provision requiring such studies to be transmitted to the Congress within three years of enactment was included in the conference report.

Exemption

The House amendment contained exemptions not included in the Senate bill, exempting institutions with total assets of $25,000,000 or less from compliance for 15 months, and exempting institutions with assets of $10,000,000 or less for the life of the Act. The conference report includes the exemption for institutions with assets of $10,000,000 or less.

Effective date

The Senate bill provided an effective date 90 days after enactment. The House amendment provided for 180 days. The Conference report provides that the Act shall take effect 180 days after enactment.

HENRY REUSS,
FERNAND J. ST GERMAIN,
FRANK ANNUNZIO,
WM. BARRETT,
JERRY M. PATTERSON,
Managers on the Part of the House.

WILLIAM PROXMIRE,
JOHN SPARKMAN,
HARRISON WILLIAMS,
T. J. MCINTYRE,
ALAN CRANSTON,
EDWARD W. BROOKE,
BOB PACKWOOD,
Managers on the Part of the Senate.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 5247, PUBLIC WORKS EMPLOYMENT ACT OF 1975

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 5247) to authorize a local public works capital development and investment program.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

FOOD DRIVE FOR NEEDY IN DISTRICT OF COLUMBIA

(Mr. PEYSER asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. PEYSER. Mr. Speaker, a year ago the Members of this House led the District of Columbia in providing food for the needy in the District over this Christmas period.

Once again this year, with the help of the Speaker and the majority leader and the minority leader and others in leadership on both sides, we are going to have a program of bringing in nonperishable food programs that will be collected on the steps of the Capitol at 11:30 this coming Thursday, December 18, on the House side.

For any Members who will not be able to be here or bring in the food on Thursday, if they want they may bring it and leave it in room 1133, the Longworth Building, where we will be glad to receive it.

This program is supported by all the religious organizations in Washington because it is a very worthwhile thing and I think it is fitting that Congress should take this leadership.

A TRIBUTE TO SPEAKER ALBERT

(Mr. CARTER asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. CARTER. Mr. Speaker, recently I read an editorial by a well-known Washington writer who has a proclivity for relating stories bordering on the lewd and lascivious. I feel that these stories were not based on fact. It has been my pleasure and my honor to accompany the gentleman, who was maligned by this poison pen artist, throughout the Far East and recently on a visit to Russia, Yugoslavia, and Romania. The man so maligned was an honor graduate of his high school, the University of Oklahoma, a Rhodes Scholar, and a colonel in the armed services of the United States during World War II. Since I consider Mr. Albert to be a man of probity and wisdom, I include the following for the RECORD:

If with pleasure you are viewing
Any work a man is doing
And you like him, or you love him, say it now!
Don't withhold your approbation
Till the person makes oration
And he lies with snowy lilies o'er his brow.
For no matter how you shout it
He won't really care about it
He won't know how many tear drops you have shed.
If you think some praise is due him
Now's the time to hand it to him
For he cannot read his tombstone when he's dead!

More than fame and more than money
Is the comment, kind and sunny
And the hearty warm approval of a friend;
Oh! It gives to life a savor
And strengthens those who waver
And gives one heart and courage to the end.
If one earns your praise—bestow it!
If you like him—let him know it!
Let the words of true encouragement be said!
Let's not wait 'till life is over,
And he lies beneath the clover
For he cannot read his tombstone when he's dead!

COMEBACK OF NORTHERN MICHIGAN UNIVERSITY WILDCATS

(Mr. RUPPE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RUPPE. Mr. Speaker, last Saturday Northern Michigan University's Wildcats completed one of the most remarkable comeback success stories in college football history.

The Wildcats won the NCAA Division II football championship in the Camellia Bowl by defeating the University of Western Kentucky 16–14, and thus secured this high honor for the State of Michigan for the second consecutive year.

What makes the Wildcats' championship so extraordinary, Mr. Speaker, is that last year the same basic team failed to win a single game. In fact, the Northern Michigan University 1974 team was listed in the bottom 10 college teams in the country.

Ah, but this year, a Wildcat team which was basically unchanged from last year, launched a campaign that took them from the ashes of defeat to the zenith of college football prominence.

During the regular season, the Wildcats defeated last year's champions on the latter's own field. The Northern Michigan team went on from there to defeat highly regarded opponents in the three playoff games leading to the national championship.

In true Upper Peninsula fashion, the Wildcats came from behind to win those three games.

Mr. Speaker, I submit that the character demonstrated by the Northern Michigan University Wildcats in winning a championship despite nearly overwhelming odds is an outstanding example of those virtues of courage, determination, and fighting spirit which this Nation has always sought to inculcate in its citizens.

It is with a deep sense of pride in their accomplishments, then, that I salute and congratulate the Northern Michigan University Wildcat football team and coaches.

They have demonstrated to the Nation that the quality of upper Michigan football is second to none.

Indeed, Mr. Speaker, the pride and power of the North is now the pride of the United States.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to, under clause 4 of rule XV.

After all motions to suspend the rules have been entertained and debated and after those motions to be determined by "nonrecord" votes have been disposed of, the Chair will then put the question on each motion on which the further proceedings were postponed.

CALL OF THE HOUSE

Mr. FREY. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. McFALL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 778]

Andrews, N.C.	English	Hungate
Badillo	Esch	Jarman
Bell	Eshleman	Jenrette
Biaggi	Flowers	Jones, Tenn.
Burke, Fla.	Foley	Karth
Burton, John	Ford, Mich.	Kasten
Byron	Fraser	LaFalce
Chappell	Gaydos	Latta
Chisholm	Giaimo	McEwen
Clancy	Guyer	Metcalfe
Collins, Ill.	Harkin	Mikva
Conyers	Harsha	Mills
Coughlin	Hastings	Mitchell, N.Y.
Diggs	Hayes, Ind.	Murphy, Ill.
Dingell	Hébert	Passman
Drinan	Hinshaw	Pickle

Rees	Simon	Thompson
Riegle	Stark	Traxler
Russo	Stephens	Udall
St Germain	Symington	Waxman
Scheuer	Taylor, Mo.	Wydler
Schulze	Teague	

The SPEAKER. On this rollcall 369 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PERMISSION FOR COMMITTEE ON RULES TO FILE CERTAIN PRIVILEGED REPORTS

Mr. MATSUNAGA. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from Hawaii?

There was no objection.

CARE OF VETERANS IN STATE HOMES

Mr. ROBERTS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 10394) to amend title 38 of the United States Code to promote the care and treatment of veterans in State veterans' homes.

The Clerk read as follows:

H.R. 10394

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That section 641 of title 38, United States Code, is amended to read as follows:

"§ 641. Criteria for payment

"(a) The Administrator shall pay each State at the per diem rate of—

"(1) $6.50 for domiciliary care,

"(2) $10.50 for nursing home care, and

"(3) $13.50 for hospital care,

for each veteran receiving such care in a State home, if such veteran is eligible for such care in a Veterans' Administration facility.

"(b) In no case shall the payments made with respect to any veteran under this section exceed one-half of the cost of the veterans' care in such State home."

The SPEAKER. Is a second demanded?

Mr. HAMMERSCHMIDT. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. ROBERTS. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, the reported bill would raise the per diem paid to State homes for hospital, nursing home, and domiciliary care for veterans. The rates were last raised on September 1, 1973.

Today there are approximately 11,000 veterans being cared for in State veterans' homes at a Federal cost of approximately $22.2 million. The committee feels the present per diem is unrealistically low considering the dramatic increase in medical costs during the past 2 years. H.R. 10394 would provide a more equal distribution of the total cost for veterans' care in our State homes.

Before yielding to the distinguished gentleman from Virginia, the very able chairman of our Subcommittee on Hospitals, I want to commend him for favorably considering this bill, and the two bills to follow. The gentleman is totally dedicated to providing quality health care for the veterans of our Nation. I also want to thank the ranking minority member of the full committee, the gentleman from Arkansas (Mr. HAMMERSCHMIDT) for his leadership and support on behalf of our veterans and their dependents during this session of the Congress.

I also want to thank all members of the committee for the great work they have done this year for our 29 million veterans and their families.

I now yield to the distinguished gentleman from Virginia (Mr. SATTERFIELD).

Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia (Mr. SATTERFIELD).

Mr. SATTERFIELD. Mr. Speaker, before proceding with an explanation of the bills scheduled for consideration today, all of which were unanimously reported by the committee on Veterans' Affairs on December 10, 1975, I wish to take this opportunity to express my special appreciation to the distinguished chairman of the Committee on Veterans' Affairs, the gentleman from Texas (Mr. ROBERTS), and the distinguished ranking minority member of the committee, the gentleman from Arkansas (Mr. HAMMERSCHMIDT), for their cooperation and support of legislation which has emerged from our committee during this session. I also wish to commend all of the members of the committee for their hard work and the long hours devoted to the committee hearings and markup sessions of the subcommittee on hospitals.

There is still much to be done. I hope to schedule early meetings of the subcommittee on hospitals when Congress reconvenes in January to continue hearings on important pending legislative proposals and to carry out our oversight responsibilities.

Mr. Speaker, H.R. 10394 would provide increases in the reimbursement rates for care in State veterans homes for various categories of care.

Currently, there are over 11,000 veterans being treated in State veterans homes at costs substantially below the per diem costs in the Veterans' Administration.

Comparative per diem costs are as follows:

Category of care	State homes	Veterans Administration	Difference per patient day
Domiciliary care	$12.19	$15.53	$3.34
Nursing home care	20.23	41.74	21.41
Hospital care	37.92	77.88	39.96

During fiscal year 1975, based on the average daily census in State veteran homes of approximately 11,000 veterans being treated, the savings of treating veterans in State home facilities as opposed to VA facilities has resulted in a savings to the Federal Government of over a quarter million dollars.

Reimbursement rates under current law were last increased in September 1973. Costs of operating these facilities have increased dramatically as they have in the Veterans Administration since that time.

This bill proposes to give some relief to State veteran homes which are facing financial crisis situations because of spiraling inflation.

H.R. 10394 would raise the State home reimbursement rates as follows:

Domiciliary care from $4.50 to $6.50 per day;

Nursing home care from $6.00 to $10.50 per day; and

Hospital care from $10.00 to $13.50 per day.

The president of the National Association of State Veteran Homes has advised the committee that they are in full accord with the provisions of H.R. 10394 and the general concept is likewise supported by the major veteran organizations which have communicated with the committee on this subject. Mr. Speaker, I include the communication from the National Association of State Veteran Homes to the committee supporting this legislation at this point in the RECORD:

Congressman RAY ROBERTS,
Chairman, House Committee on Veterans' Affairs, House of Representatives, Washington, D.C.

DEAR CONGRESSMAN ROBERTS: The National Association of State Veterans Homes representing 40 state homes in 32 states supports H.R. 10394. This bill is a compromise which we feel is fair and equitable to both the Veterans Administration and the state. We cannot properly stress the urgency for passage of some form of financial relief to more adequately compensate state homes as intended by the original legislation.

We sincerely hope your committee can approve this legislation on December 10. Very truly yours.

KENNETH M. TARR,
President, National Association of State Veterans Homes, New Hampshire Veterans Home.

The fiscal year 1976 cost of this bill, assuming an effective date of January 1, 1976, would be $6.1 million and the cost would rise to $15.6 million in fiscal year 1981.

The cost of this legislation is within the budget ceiling established for veterans' benefits and services in the second concurrent congressional budget resolution.

Mr. Speaker, the Committee on Veterans' Affairs unanimously recommends passage of H.R. 10394 by the House of Representatives.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 10394. The principal thrust of this measure is to increase the per diem rate payable by the Veterans' Administration to States on behalf of veterans receiving care in State homes. Additionally, the bill will permit the Veterans' Administration to pay the per diem of State homes on behalf of any veteran eligible for care in a Veterans' Administration facility. Current law limits payments to veterans of any war or of service after January 31, 1955.

Earlier this year, Mr. Speaker, we received testimony on the subject of this measure, H.R. 10394. It was revealed that at that time the average cost of hospi-

talization per day for one veteran in a Veterans' Administration facility was $76 in 1975. Had the same veteran been hospitalized in a facility operated by a State veterans home, the cost to the Veterans' Administration would have been $10 per day. The average per diem in State home hospitals, incidentally, at that time, was $42.

A veteran receiving nursing care in a Veterans' Administration facility during 1975 cost the Federal Government $41.18 per day. If he received nursing care in a State veterans home, Mr. Speaker, the Veterans' Administration would pay only $6 per day.

Domiciliary care in a Veterans' Administration facility costs $15.39 per day. In a State home facility, the Veterans' Administration pays but $4.50 per day.

Mr. Speaker, our Nation is indeed fortunate that many States have undertaken programs of this nature to assume a portion of the responsibility for providing veterans benefits and services. We cannot afford to discourage them from continuing such programs. The testimony before our subcommittee clearly revealed that the present per diem paid to State veterans homes is insufficient to provide adequate care for veterans.

H.R. 10394 will increase the per diem rate paid to State veterans homes. The $10 rate for hospital care will be increased to $13.50. The $6 rate for nursing care would be increased to $10.50, while the domiciliary home rate would be increased from $4.50 to $6.50.

Mr. Speaker, this bill is necessary if veterans are to continue receiving quality care from this most welcome source. I support the bill, and urge that it be passed.

Mr. Speaker, I yield 3 minutes to the gentlewoman from Massachusetts (Mrs. HECKLER.)

Mrs. HECKLER of Massachusetts. Mr. Speaker, I thank the distinguished gentleman from Arkansas for yielding me this time and I rise in strong support of H.R. 10394. This improvement in the funds for State veterans home is long overdue and hardly keeps pace with the costs. It is a step in the right direction that is badly needed to help compensate for the valuable services that the State veterans homes do perform for our veterans.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. WYLIE), a member of the committee.

Mr. WYLIE. Mr. Speaker, I rise in support of the bill H.R. 10394. I think this is a good investment by the Federal Government.

Mr. Speaker, H.R. 10394 is necessary to fulfill our partnership with the 31 State veterans' homes in the United States, one of which is located in my own State of Ohio, the Sailors and Soldiers Home at Sandusky, Ohio.

We here in Congress often tend to forget that the veterans' agencies of the several States provide many varied and important services to veterans that constitute needed supplements to the programs administered by the Veterans' Administration. These State programs save the Federal Government a significant sum of money because if they were to terminate, the entire financial burden of veterans' care would fall on the Federal Establishment.

This bill will increase the Federal Government's share of providing domiciliary, nursing, and hospital care to the State veterans' homes. The Federal Government has been assisting these State homes in various ways since 1939. The last time the Federal subsidy was determined was in September of 1973. Since then, there has been a significant amount of inflation.

H.R. 10394 provides a necessary and modest increase in support of State veterans' homes.

The current Federal share is $4.50 per diem for domiciliary care, $6 per diem for nursing home care, and $10 per diem for hospital care. H.R. 10394 will increase the Federal per diem share to $6.50 for domiciliary care, $10.50 for nursing home care, and $13.50 for hospital care. Considering the fact that it costs the Veterans' Administration in its own facilities $15.53 per diem for domiciliary care, $41.74 per diem for nursing home care, and $77.89 for hospital care, and the fact that the VA would have to expand its facilities to care for these veterans if the State veterans' homes closed, it is extremely important that we increase the Federal Government's share to compensate for the rising cost of caring for these veterans. It is also important to remember that the Veterans' Administration in the past few years has promulgated regulations which require that the care in State veterans' homes be comparable with that in the similar facilities in the VA. In some instances, this has also increased the State veterans' homes per diem costs.

Therefore, I strongly support and recommend passage of this bill.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 3 minutes to the gentleman from South Dakota (Mr. ABDNOR).

Mr. ABDNOR. Mr. Speaker, I want to thank both the gentleman from Texas (Mr. ROBERTS) and the gentleman from Virginia (Mr. SATTERFIELD) for their efforts in bringing this matter before the House of Representatives. By having a State veterans' home in my home State of South Dakota and having sponsored a similar bill, I know of the need for this proposed legislation.

As has been pointed out earlier, the State veterans' homes provide a special bargain to the Federal Government. There are currently 40 State veterans' homes in the United States which either provide domiciliary, nursing or hospital care, or a combination of any or all such care to many veterans. Both the States and the Federal Government share in the expense of operating these homes and it is time that the Federal Government increased its share in this partnership. This is particularly true, since if these State veterans' homes were to close, many of the veterans in these homes would have to be taken care of by expanded Veterans' Administration facilities. By comparison, this would be vastly more expensive to the Federal Government. In fiscal year 1975 it cost the VA $15.43 per diem for domiciliary care, $41.74 for nursing care, and $77.89 for hospital care at its own VA facilities. The bill under consideration today, H.R. 10394, would raise the Federal Government share to State veterans' homes to $6.50 for domiciliary care, $10.50 for nursing home care, and $13.50 for hospital care—a definite bargain to the Federal Government.

This is a bargain we cannot afford to refuse and as a cosponsor of similar proposed legislation, I strongly urge my fellow colleagues to unanimously support this bill.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana (Mr. HILLIS).

Mr. HILLIS. Mr. Speaker, I rise in support of H.R. 10394, a bill to promote the care and treatment of veterans in State veterans' homes.

In essence, this bill would amend section 641 of title 38, United States Code, to increase the per diem amounts paid by the Veterans' Administration to States for the care and treatment of eligible veterans receiving such care in State homes.

The per diem rate for domiciliary care would increase from $4.50 to $6.50; from $6 to $10.50 for nursing home care; and from $10 to $13.50 for hospital care. The bill does limit payments to one half of the cost of the veterans' care in the State homes.

Historically, the contribution of the Federal Government to State homes was one of assistance in domiciliary care. However, in 1939, Federal aid payments were extended to State homes which provided hospital care and treatment; and during recent years permitted per diem allowances were extended to nursing home care provided by State homes.

The current per diem rates were established in September 1973. The current average cost per day to care for a patient in a Veterans' Administration hospital is $77.88; nursing care units is $41.74; and VA domiciliary is $15.53.

Mr. Speaker, the States are carrying the larger cost share of maintaining veterans in State homes. H.R. 10394 would provide a more equal distribution of the total cost.

And, in view of the dramatic increase in medical care costs since 1973 when the rates were last increased, I strongly feel that this increase is justified.

Therefore, I urge my colleagues to join in supporting this worthwhile measure.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. O'BRIEN).

Mr. O'BRIEN. Mr. Speaker, I rise in support of H.R. 10394, a bill to promote the care and treatment of veterans in State veterans' homes .

Mr. Speaker, the main thrust of this bill would increase the per diem amounts paid by the Veterans' Administration to States for the care and treatment of eligible veterans receiving such care in State homes. It would increase the per diem rate for domiciliary care from the current $4.50 to $6.50; the per diem rate for nursing home care from $6 to $10.50; and the per diem rate for hospital care from $10 to $13.50.

The average cost per day for care in State homes has increased dramatically since September 1, 1973, when the current per diem rates were established. The States, through public and private funds, are carrying the larger cost share of maintaining veterans in State homes. H.R. 10394 would provide a more equal distribution of the total cost, by giving some relief to State veterans' homes during this period of spiraling inflation.

Mr. Speaker, I support this bill and urge that it be passed.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield such time as he may consume to the gentleman from Iowa (Mr. GRASSLEY).

Mr. GRASSLEY. Mr. Speaker, I rise in support of this bill.

It is important to remember that the States have no obligation to operate these homes, but by doing so they relieve the Veterans' Administration of a tremendous financial burden. Even the increased contribution rate of this bill comes nowhere close to meeting the costs faced by the States in providing this gratuitous care. In short, the Federal Government is getting a tremendous bargain by insuring the continued operation of State homes.

Additionally, I know from personal experience from my visits to the Iowa Veterans Home in Marshalltown, Iowa, that the quality of care provided by the State homes is unsurpassed. Even more important, the quality of care provided is the manner in which it is delivered. They make every effort to deinstitutionalize the services, in order to make the veteran feel he is in fact, "at home," and not treated impersonally.

Mr. CORNELL. Mr. Speaker, I rise in wholehearted support of the legislation now before us. H.R. 10394 closely reflects the intent of my personal efforts to correct long-standing inequities between Federal and State support of veterans homes. While this bill differs from those I have introduced, and the funding level is somewhat less than I had hoped would be passed by this house, it nonetheless is a significant step forward in helping our fine State veterans homes continue in the provision of quality health care in the personalized manner for which they have been noted.

By increasing the Veterans' Administration's portion of daily health costs incurred by State homes, the Federal Government not only helps improve these institutions but also insures that over 11,000 of our older veterans will be treated at far less cost to the taxpayer than if they were handled at our more costly VA institutions.

Hence, we have the best of all possible situations. Veterans will receive personalized attention in facilities which are close to home and families; States will now have the means to prepare for the influx of our largest group of veterans, those of World War II; the Federal Government will incur less than half the cost it ordinarily would if these servicemen or their relatives were treated in VA facilities.

Mr. Speaker, I commend the Committee on Veterans' Affairs and Mr. SATTERFIELD for this praiseworthy legislation, and I urge my colleagues to support its passage.

Mr. CONTE. Mr. Speaker, I rise in support of the bill to amend title 38 of the United States Code to promote the care and treatment of veterans in State veterans' homes, H.R. 10394.

Basically the bill will provide modest increases to State facilities providing domiciliary and nursing care to veterans. The present per diem Federal contribution to the States is $10 for hospital care, $6 for nursing home care, and $4.50 for domiciliary care. The bill before us will raise the per diem contribution to $13.50 for hospital care, $10.50 for nursing home care and $6.50 per day for domiciliary care. The increases are very modest. The present rates have been in effect since September 1, 1973. As a contrast, I should like to point out that the average per diem cost to the Federal Government in a Veterans' Administration hospital is $77.88, $41.74 in a nursing care unit, and $15.53 at a domiciliary unit. It is clear that the States are maintaining the vast proportion of the cost to maintain veterans in State facilities. Facilities such as the Soldiers' Home in Holyoke, Mass., are doing an excellent job given their tight budgets and limited amounts of donations. It is only proper that we increase the Federal share to at least equal the real dollars we were providing in 1973. I urge my colleagues to support this timely and important legislation.

Thank you, Mr. Speaker.

Mr. TEAGUE. Mr. Speaker, I wholeheartedly support the passage of H.R. 10394 which will increase per diem rates for the care of veterans in State veterans' homes.

There are over 11,000 veterans receiving some form of care in over 40 State home facilities throughout the United States. They receive excellent care in these facilities and relieve the Federal Government of a substantial workload which would otherwise increase the already overcrowded condition in many VA hospitals and nursing homes.

Mr. Speaker, I am particularly proud to have authored legislation in the 88th Congress and the 91st Congress to expand the scope of this program and the reimbursement rates need to be adjusted now to carry on this fine program and to take care of inflation which has taken place since they were last set in September 1973.

Mr. Speaker, H.R. 10394 would raise the State home reimbursement rates as follows:

Domiciliary care from $4.50 to $6.50 per day;

Nursing home care from $6 to $10.50 per day; and

Hospital care from $10 to $13.50 per day.

Mr. Speaker, I hope the Senate Veterans' Affairs Committee will take prompt action on this particular measure when the 2d session of the 94th Congress convenes in January.

Mr. ROBERTS. Mr. Speaker, I have no additional requests for time. I would inquire if the distinguished gentleman from Arkansas desires to yield further time.

Mr. HAMMERSCHMIDT. I have no further requests for time, Mr. Speaker, and I yield back the balance of my time.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. ROBERTS) that the House suspend the rules and pass the bill H.R. 10394.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material, on the subject of the bill just passed, H.R. 10394.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

PROVIDING FOR ANNUAL INVESTIGATIONS BY THE ADMINISTRATOR OF VETERANS' AFFAIRS INTO COST OF TRAVEL BY VETERANS TO VA FACILITIES

Mr. ROBERTS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2735) to amend title 38 of the United States Code in order to provide for an annual investigation by the Administrator into the cost of travel by veterans to Veterans' Administration facilities and to set rates therefor, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2735

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 111 of title 38, United States Code, is amended by inserting at the end thereof the following new subsection:

"(e) In carrying out the purposes of this section, the Administrator shall conduct annual investigations of the cost of travel (including lodging and subsistence) and the operation of privately owned vehicles to beneficiaries while traveling to or from a Veterans' Administration facility or other place pursuant to the provision of this section. In conducting the investigations, the Administrator shall review and analyze among other factors—

"(1) depreciation of original vehicle costs;

"(2) gasoline and oil costs;

"(3) maintenance, accessories, parts, and tires;

"(4) insurance;

"(5) State and Federal taxes; and

"(6) the per diem rates, mileage allowances, and expenses of travel authorized under sections 5702 and 5704 of title 5, for employees of the United States traveling on official business;

and he shall report the results of such investigations to the Committees on Veterans' Affairs of the Senate and the House of Representatives at least once each year, setting forth the allowance rate authorized and the basis used for such determination.".

The SPEAKER. Is a second demanded?

Mr. HAMMERSCHMIDT. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from Texas (Mr. ROBERTS) will be recognized for 20 minutes, and the gentleman from Arkansas (Mr. HAMMERSCHMIDT) will be recognized for 20 minutes.

The Chair now recognizes the gentleman from Texas (Mr. ROBERTS).

Mr. ROBERTS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the reported bill would require the Administrator of Veterans' Affairs to conduct annual investigations of the cost of travel, and the operation of privately owned vehicles by veteran beneficiaries while traveling to or from a Veterans' Administration facility in connection with vocational rehabilitation, counseling, or for the purpose of examination, treatment, or care. Factors to be included in the study are set out in the committee report.

Currently, the allowance may be fixed by the Administrator in such amount per mile as he determines. Periodically, the Agency is supposed to make studies to determine the adequacy of beneficiary travel allowances; however, those studies to date have not taken into consideration such factors as depreciation of the original vehicle cost, insurance, taxes, or the relative rates paid Federal employees traveling on official business. We feel such factors are essential if results of such studies are to have any meaning.

The reported bill would simply require the Administrator to conduct annual studies based on specific criteria, and set a rate based on the results of such studies. The Congress could then determine whether the rate set by the Administrator is adequate.

Mr. Speaker, I now yield such time as he may consume to the distinguished Chairman of the subcommittee, the gentleman from Virginia (Mr. SATTERFIELD).

Mr. SATTERFIELD. Mr. Speaker, H.R. 2735 would amend section 111 of title 38, to require the Administrator to conduct annual investigations of the cost of travel—including lodging and subsistence—and the operation of privately owned vehicles to veteran beneficiaries while traveling to or from a Veterans' Administration facility. Factors to be considered in such investigations would include depreciation of original vehicle costs; gasoline and oil costs; maintenance, accessories, parts and tires; insurance; State and Federal taxes; and the expenses of employee travel. Reports of such investigations would be submitted annually to the Committee on Veterans Affairs of the Senate and the House of Representatives.

Under current law, a VA beneficiary who travels in connection with Veterans' Administration vocational rehabilitation, counseling, or for the purpose of examination, treatment, or care, may pay his own necessary expenses of travel by personally owned conveyance and be reimbursed on a mileage basis; he may pay his own expenses of travel and be repaid for actual and necessary expenses; or he may obtain a Government transportation request from the VA for presentation to the ticket office in exchange for his bus or train ticket. Should the veteran choose the last option, he may also obtain from the VA, reimbursement for any necessary expenses for meals and lodging.

The authority of the President, pursuant to section 111(A) of title 38, to set rates for travel of certain VA beneficiaries, was delegated to the Administrator of Veterans Affairs by Executive Order 11609, dated July 22, 1971.

Currently, the allowance may be fixed by the Administrator in such amount per mile as he determines. Presently it is fixed at 8 cents per mile.

A Federal employee on official Government business is currently paid 15 cents per mile if he uses his own vehicle if the situation is deemed "advantageous to the Government" or 11 cents per mile if he uses his own vehicle when a GSA vehicle is available, but he chooses to use his own.

Beneficiary travel was last increased by the Veterans' Administration on June 1, 1974, from 6 cents to the present 8 cents per mile. This bill merely requires the Administrator of Veterans' Affairs to make an annual study and set a rate. It does not take away the Administrator's right or responsibility to change the rate. There would be negligible cost to the Government in authorizing the study as provided under this bill, and it is impossible to determine future costs until the study is completed, as would be directed by this legislation.

Mr. Speaker, the Committee on Veterans' Affairs unanimously recommends passage of H.R. 2735 by the House of Representatives.

Mr. HORTON. Mr. Speaker, will the gentleman yield?

Mr. SATTERFIELD. I yield to the gentleman from New York.

Mr. HORTON. I thank the gentleman for yielding.

I am not going to object to the bill, and I am going to vote for the bill, but I do want to raise a question. As the gentleman knows, this travel was included in the Government Operations report, and the bill was re-reported out, and the bill was vetoed, as I recall, by the President because of the Veterans' travel cost increase.

Then it was decided that we would separate the bill, and we did not include the veterans in the increase for all general employees.

I certainly think that it is important to have the rates increased as far as the veterans are concerned. I certainly want to indicate my support for that, but the question that I have is this: As I understand it, the General Services Administration can provide the kind of information that is being delegated here to the Administrator. I would hope that the Administrator would rely upon and utilize the facilities of the General Services Administration rather than duplicate what is already being done. I just call this to the attention of the Members of the House and to the chairman of the committee and the chairman of the subcommittee, in the hope that there will be no duplication. Perhaps the gentleman might want to comment as to whether or not that was looked into.

Mr. SATTERFIELD. I might say that that is precisely what we hope. It is our intent that if information as to these factors are available from the General Services Administration or elsewhere, the Administrator will have the good judgment to utilize that information instead of developing it independently. We are requiring that he take them into consideration so that if in the future Congress decides it wishes to increase the rate or if the Administrator decides that he wishes to increase the rate, these factors will be taken into consideration, factors which we do not believe have been taken into consideration in the past.

Mr. HORTON. If the gentleman will yield further, that is the point I wanted to make, that the studies and obtaining of the information the GSA is equipped to handle, and there is no point in having Veterans' Administration duplicate that service, and hopefully the Veterans' Administration could rely upon and get the information from GSA. GSA would agree that the decision is to be made by the Veterans' Administration and I would indicate my support for the need for an increase at this time.

Mr. SATTERFIELD. I thank the gentleman from New York. I think his suggestion is a worthy one. I am hopeful that the basic information to which he refers will be available to the Administrator, where it should be, so that he can take it into consideration.

I might add that the cost of this measure is negligible. It will not require an increase in the rates and I believe the colloquy in which we have just engaged support in the conclusion that the cost will be negligible.

The committee unanimously adopted this bill and I hope the House will pass it.

Mr. HAMMERSCHMIDT. Mr. Speaker, again I commend the chairman of our full committee, the gentleman from Texas (Mr. ROBERTS), as well as the distinguished chairman of our subcommittee, the gentleman from Virginia (Mr. SATTERFIELD).

Mr. Speaker, I rise in support of this bill, H.R. 2735. Existing law permits the Veterans' Administration to underwrite the cost of travel to and from Veterans' Administration facilities and other necessary expenses, such as meals and lodging, for veterans reporting for physical examination, treatment, or medical care or for veterans reporting for counseling in connection with vocational rehabilitation.

By Executive order issued in 1971, the President delegated to the Veterans' Administrator the authority to set the rates for such travel. The Administrator last exercised this authority on June 1, 1974, when he increased the allowance for travel by privately owned conveyance from 6 cents to 8 per mile.

The veteran is also authorized to pay his own expenses of travel and be reimbursed for actual and necessary expense, or he may obtain a Government transportation request from the Veterans' Administration which will authorize bus or train travel. In such cases, he would be reimbursed for meals and lodging.

This measure, Mr. Speaker, will not

disturb the authority of the Administrator to set the rate of travel allowance. It will, however, require the Administrator to conduct an annual investigation of the cost of travel, taking into account various related factors. The results of his investigation, setting forth the travel allowance rate authorized and the basis for such determination, shall be reported once each year to the House and Senate Committees on Veterans' Affairs.

The new procedures authorized by this legislation, Mr. Speaker, will insure that the rate of travel reimbursement authorized for Veterans' Administration beneficiaries keeps pace with current costs of travel generally. I strongly support this measure, and urge that it be passed.

Mrs. HECKLER of Massachusetts. Mr. Speaker, I rise in support of H.R. 10394, a bill to raise the per diem rates paid by the Veterans' Administration for veterans who receive care in State veterans' homes.

At the present time, the Veterans' Administration pays $6.50 for domiciliary care, $10.50 for nursing-home care, and $13.50 for hospital care for each veteran receiving such care in a State home. These costs contrast with the average cost per day for a patient in a Veterans' Administration hospital of $15.53 for domiciliary care, $41.74 for nursing care, and $77.88 for hospital care.

In increasing the rates from $4.50 to $6.50 for domiciliary care, $6 to $10.50 for nursing-home care, and from $10 to $13.50 for hospital care, H.R. 10394 provides an essential readjustment for the treatment of veterans in my own State, the Commonwealth of Massachusetts, and in States throughout the Nation.

Ever since 1939, when the public law was amended to permit Federal aid payments for hospital care and treatment furnished to veterans in State veterans' homes, the Federal and State governments have cooperated in caring for veterans in State homes. In recent years, as medical costs have risen dramatically, both in private and public facilities, State veterans' homes have been hard pressed to maintain the quality of the care they provide. For example, at the Soldiers' Home in Chelsea, Mass., directed by Commandant John L. Quigley, every effort is being made to utilize dwindling resources in order to serve the veterans of the Commonwealth. Having stretched the available dollars to the utmost, they are being forced to reduce services, including the turning away of prospective patients and the cutting back of their staffs. All of this is at considerable sacrifice to the veterans who have earned and who rely upon adequate treatment and care.

Mr. Speaker, H.R. 10394 seeks to redress this situation, by providing modest increases in per diem rates. I am pleased to add my voice to those of my colleagues in urging the Members of the House to vote in favor of this bill.

Mr. TEAGUE. Mr. Speaker, I rise in support of H.R. 2735 which would require the Administrator of Veterans' Affairs to annually conduct investigations of the cost of travel for veterans traveling to and from VA medical facilities to receive medical examinations and care for their disabilities.

The authority of the President, pursuant to section 111(a) of title 38, to set rates for travel of certain VA beneficiaries, was delegated to the Administrator of Veterans' Affairs by Executive Order 11609, dated July 22, 1971.

Beneficiary travel was last increased by the Veterans' Administration on June 1, 1974, from 6 cents to the present 8 cents a mile. This bill merely requires the Administrator of Veterans' Affairs to make an annual study and set a rate. It does not take away the Administrator's right or responsibility to change the rate.

Mr. Speaker, we all know that economic conditions change rapidly, and it is not at all unreasonable to require the Administrator to annually justify to the Congress the basis for setting beneficiary travel allowances, particularly for the service-connected veterans of our country.

Mr. Speaker, I hope this bill will be unanimously passed by the House and that the Senate will take swift favorable action during the second session of this Congress.

Mr. HILLIS. Mr. Speaker, I rise in support of H.R. 2735, a bill which would provide for an annual investigation by the Administrator into the cost of travel by veterans to Veterans' Administration facilities and to establish rates for such travel.

Section 111, title 38, United States Code currently provides for payment of actual necessary expense of travel—including lodging and subsistence—or in lieu thereof an allowance based upon mileage traveled to and from a VA facility for various rehabilitation, counseling, and medical care.

H.R. 2735 would require the Administrator to conduct investigations of the cost of travel—lodging and subsistence—and the operation of privately owned vehicles to beneficiaries traveling to and from a VA facility. The results would be reported to the Veterans' Affairs Committees at least once a year and would provide such information as recommendations for allowance rates authorized and the factors used for such determinations.

Mr. Speaker, in view of the disparities in the travel expense allowances for Government employees as compared to those authorized our disabled veterans, it is quite obvious that those rates authorized for veterans appear to be wholly unrealistic and discriminatory. I believe it is important that an equitable and reasonable schedule of travel allowances for VA beneficiaries be established and that periodic reviews be conducted.

In view of the above, I urge my colleagues to join in supporting this measure.

Mr. O'BRIEN. Mr. Speaker, I rise in support of H.R. 2735, a bill to provide for an annual investigation by the Veterans' Administration concerning the cost of travel by veterans who travel in connection with Veterans' Administration vocational rehabilitation, counseling, or for the purpose of examination, treatment, or hospital care.

Mr. Speaker, this bill would simply require the Administrator to conduct annual studies and set a rate based on the result of such studies. The bill would not take away the Administrator's present authority to change the rate. The annual reports would be submitted to the Committees on Veterans' Affairs and would provide such information as recommendations for allowance rates authorized and the factors which were considered.

It appears that a Federal employee, who receives travel expense allowances is at a distinct advantage over our disabled veterans in the amounts of reimbursement.

It is, therefore, important that we periodically review the schedule of travel allowances for VA beneficiaries and that equitable and reasonable rates be established.

In view of the above, I urge my colleagues to join in supporting this measure.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. ROBERTS) that the House suspend the rules and pass the bill H.R. 2735, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on this legislation (H.R. 2735) and to include extraneous material.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

RELEASE OF NAMES AND ADDRESSES OF PRESENT AND FORMER PERSONNEL OF THE ARMED SERVICES BY THE ADMINISTRATOR OF VETERANS' AFFAIRS

Mr. ROBERTS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 10268) to amend title 38 of the United States Code in order to clarify the purposes for which the Administrator of the Veterans' Affairs may release the names and addresses of present and former personnel of the armed services and their dependents, as amended.

The Clerk read as follows:

H.R. 10268

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That paragraph (9) of section 3301 of title 38, United States Code, is amended to read as follows:

"(9) (A) The Administrator shall, pursuant to such regulations as he shall prescribe, release the names and addresses of present or former personnel of the armed services, or their dependents, or both—

"(1) to service organizations recognized under section 3402 of this title for purposes of the preparation, presentation, and prose-

cution of claims under laws administered by the Veterans' Administration; and

"(ii) to any Federal, State, or local government agency if the Administrator deems such release to be necessary or appropriate for the protection of the public health and safety.

"(B) Any organization or member thereof, or any agency or officer or employee thereof, who uses any name or address released pursuant to subparagraph (A) of this paragraph for purposes other than those specified in such subparagraph shall be fined not more than $1,000 in the case of a first offense and not more than $5,000 in the case of any subsequent offense.".

The SPEAKER. Is a second demanded?

Mr. HAMMERSCHMIDT. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. ROBERTS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of the reported bill is to clarify existing law which permits the Veterans' Administration to release the names and addresses and relevant medical information of patients in VA health care facilities.

For years it has been the practice of VA hospitals to routinely inform appropriate public health departments of the hospital release of veteran patients diagnosed with communicable diseases. This information is essential if the health departments are to aid the veteran and assure protection to the general population with whom the veteran comes into contact.

We feel the Administrator now has authority to release this information under paragraph (8) of section 3301, title 38, United States Code; however, because Congress enacted amendments to section 3301 in 1972 to halt the unauthorized release of lists of veterans' names and addresses to commercial organizations interested in solicitation, the Veterans' Administration has taken the position that Congress intended to remove altogether the release of veterans' names and addresses from the Administrator's broad authority under paragraph (8) of section 3301. This certainly was not the intent of Congress.

The committee feels strongly that since the release of names and addresses, for the limited purposes authorized in the reported bill, cannot be accomplished by administrative action, legislative action is the only remedy in order to avoid serious implications.

I now yield to the distinguished gentleman from Virginia, the very able chairman of our Subcommittee on Hospitals, Mr. SATTERFIELD.

Mr. SATTERFIELD. Mr. Speaker, the purpose of this legislation is to clarify existing law which would permit the Veterans' Administration, as it has done for many years until recently, to release medical information on communicable diseases to State public health officials; to permit the release of information on gunshot wounds and other crime-related matters to local law enforcement officials; and release medical information which might bear on an individual's driving ability to licensing authorities.

At the request of the Veterans' Administration, H.R. 12828 (Public Law 92–540), which amended veterans' education laws, language was included in the legislation relating to indiscriminate release of names and addresses of veterans and their dependents. This law was signed in October 1972.

It was not the intent of Congress to restrict the release of names and addresses to law enforcement officials for law enforcement purposes or to State public health officials in connection with epidemics and communicable diseases or in matters affecting the public safety.

Yet, on May 30, 1974, almost 2 years after the bill was signed, the General Counsel of the Veterans' Administration issued an opinion construing the language VA requested to preclude the release of names and addresses to the aforementioned officials.

Despite repeated appeals for reevaluation of their position by this committee, law enforcement officials, and State public health directors, the Veterans' Administration General Counsel insists that current law as we amended it in October 1972 does not permit the release of this information. This ruling has caused widespread problems in relationships between the VA and those who are charged with protecting community public health and safety.

The need for this bill was clearly demonstrated during the recent encephalitis epidemics in Texas, Mississippi, and a few other States. Local VA medical officials refused to release the information based on the General Counsel's opinion. However, in view of the emergency situation, the Chief Medical Director directed that the information be released immediately to authorized State public health officials, despite the VA General Counsel's opinion.

While the Administration opposed this bill in their testimony before the committee based on their interpretation of the Right to Privacy Act, our committee believes VA's interpretation is incorrect. We believe this legislation is urgently needed to clarify congressional intent and the Committee on Veterans' Affairs unanimously urges its passage by the House of Representatives.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 10268, a bill to clarify the authority of the Administrator of Veterans' Affairs to release the names and addresses of veterans to Federal, State, and local government agencies when necessary for the protection of the public health and safety.

The Veterans' Administration, Mr. Speaker, has for many years cooperated with State and local health departments and reported to them the names and addresses of veterans being treated for communicable disease such as tuberculosis, hepatitis, and venereal disease. This has been necessary so that a unit of the State or municipal public health service could follow up on each case to prevent the spread of communicable disease. This authority to release such information is set forth in 38 U.S.C. 3301(8) which reads:

The Administrator may release information, statistics, or reports to individuals or organizations when in his judgment such release would serve a useful purpose.

In 1972, the Congress added a new subsection (9) to section 3301 which reads in part:

The Administrator may, pursuant to regulations he shall prescribe, release the names and addresses of present or former personnel of the armed services, and/or dependents to any nonprofit organization but only if the release is directly connected with the conduct of programs and the utilization of benefits under this title.

It was clearly the intent of our committee and the Congress that subsection (9) was enacted to clarify the circumstances under which veterans names and addresses could be released to veterans organizations for rehabilitation and outreach efforts and denied to organizations for commercial purposes.

For some unexplained reason, the Veterans' Administration waited some 2 years until May 30, 1974, to reach the conclusion that because of the enactment of subsection (9), the Veterans' Administration no longer had the discretionary authority to release the names and addresses of veterans to State and local health agencies.

I, for one, do not agree with this rather arbitrary opinion of the Veterans' Administration that has had such a devastating effect upon an extremely important and longstanding cooperative arrangement with State and local public health authorities.

Despite repeated requests by this committee, the President and members of the Association of State and Territorial Health Officials and other persons, the Veterans' Administration has refused to change its position.

I do not want the health of this Nation placed in jeopardy by this ridiculous interpretation of law by the Veterans' Administration. I was, therefore, pleased to have cosponsored this measure, H.R. 10268, which clearly and concisely sets forth the Administrator's authority to release the names and addresses of veterans to Federal, State, or local government agencies, if such release is necessary or appropriate for the protection of the public health and safety.

I urge that the bill be approved.

Mr. TEAGUE. Mr. Speaker, I am pleased to be a coauthor of this legislation which provides legislative clarification which would clearly authorize the Veterans' Administration, as it has done for many years, until a year or so ago, to release medical information on communicable diseases to State public health officials; to permit the release of information on gunshot wounds and other crime-related matters to local law enforcement officials; and release medical information, which might bear on an individual's driving ability to State licensing authorities.

It was not the intent of Congress to restrict the release of names and addresses to law enforcement officials for law enforcement purposes or to State public health officials in connection with epidemics and communicable diseases or in matters affecting the public safety when we enacted Public Law 92–540.

On May 30, 1974, almost 2 years after the Public Law 92–540 was signed, the

General Counsel of the Veterans' Administration issued an opinion construing the langauge of this bill to preclude the release of names and addresses to the aforementioned officials.

The need for this bill was clearly demonstrated during the recent encephalitis epidemics in Texas, Mississippi, and a number of other States. Local VA medical officials refused to release the information based on the General Counsel's opinion. However, in view of the emergency situation, the Chief Medical Director, to his credit, immediately directed that the information to be released to authorized State public officials, which averted a medical crisis in these States. I believe this legislation is urgently needed to clarify congressional intent, and I urge my colleagues in the House to give it their unanimous support.

Mr. Speaker, I hope the Senate will give prompt attention to this matter when the second session of the 94th Congress convenes in January.

Mr. O'BRIEN. Mr. Speaker, I rise in support of H.R. 10268, a bill which, as amended, clarifies the purposes for which the Administrator of Veterans' Affairs may release the names and addresses of present and former personnel of the armed services and their dependents.

Mr. Speaker, this bill would authorize the release of names and addresses of present or former personnel of the armed services and/or their dependents to service organizations recognized under section 3402 of title 38, United States Code, for specific purposes and to Federal, State, or local government agencies for the protection of the public health and safety.

The furnishing of necessary information to legitimate State public health agencies is required where there is concern to prevent the spread of communicable diseases. And this need was recently promulgated during the recent encephalitis epidemics in Texas, Mississippi, and other States.

Mr. Speaker, I believe this bill provides adequate penalties for misuse of such information, and that the release of names and addresses would be applicable only in accordance with Federal laws and regulations safeguarding individual privacy.

Therefore, I give my support to H.R. 10268.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. ROBERTS) that the House suspend the rules and pass the bill, H.R. 10268, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended was passed.

The title was amended so as to read: "A bill to amend title 38 of the United States Code in order to clarify the purposes for which the Administrator of Veterans' Affairs may release the names and addresses of present and former personnel of the armed services and their dependents.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on the subject of the bill (H.R. 10268) just passed.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

REHABILITATION ACT AMENDMENTS OF 1975

Mr. BRADEMAS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 11045) to amend the Rehabilitation Act of 1973 to extend the authorizations of appropriations contained in such Act.

The Clerk read as follows:

H.R. 11045

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

SHORT TITLE

SECTION 1. This Act may be cited as the "Rehabilitation Act Amendments of 1975".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR VOCATIONAL REHABILITATION SERVICES

SEC. 2. (a)(1) Section 100(b)(1) of the Rehabilitation Act of 1973 (29 U.S.C. 720(b)(1)) (hereinafter in this Act referred to as the "Act") is amended by striking out "and" immediately after "1975," and by inserting immediately before the period at the end thereof the following: ", $740,000,000 for the fiscal year ending September 30, 1977, and $760,000,000 for the fiscal year ending September 30, 1978".

(2) The first sentence of section 100(b)(2) of the Act (29 U.S.C. 720(b)(2)) is amended by inserting immediately before the period at the end thereof the following: "; and there is authorized to be appropriated for such purposes $25,000,000 for the fiscal year ending September 30, 1977, and $25,000,000 for the fiscal year ending September 30, 1978".

(b) The first sentence of section 112(a) of the Act (29 U.S.C. 732(a)) is amended by striking out "and" immediately after "1975," and by inserting immediately after "1976," the following: "and for the fiscal year ending September 30, 1977, and September 30, 1978,".

(c) Section 121(b) of the Act (29 U.S.C. 741(b)) is amended by striking out June 30, 1977" and inserting in lieu thereof September 30, 1979".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR RESEARCH AND TRAINING

SEC. 3. (a) The first sentence of section 201(a)(1) of the Act (29 U.S.C. 761(a)(1)) is amended by inserting immediately before the period at the end thereof the following: "; and for the fiscal years ending September 30, 1977, and September 30, 1978, such sums as the Congress may determine to be necessary".

(b) Section 201(a)(2) of the Act (29 U.S.C. 761(a)(2)) is amended by inserting immediately before the period at the end thereof the following; ", and for the fiscal years ending September 30, 1977, and September 30, 1978, such sums as the Congress may determine to be necessary".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR GRANTS FOR CONSTRUCTION OF REHABILITATION FACILITIES

SEC. 4. (a) The first sentence of section 301(a) of the Act (29 U.S.C. 771(a)) is amended by inserting immediately before the period at the end thereof the following: ", for the fiscal years ending September 30, 1977, and September 30, 1978".

(b) The last sentence of section 301(a) of the Act (29 U.S.C. 771(a)) is amended by striking out "July 1, 1978" and inserting in lieu thereof "October 1, 1980".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR VOCATIONAL TRAINING SERVICES FOR HANDICAPPED INDIVIDUALS

SEC. 5. Section 302(a) of the Act (29 U.S.C. 772(a)) is amended by inserting immediately before the period at the end thereof the following: ", for the fiscal years ending September 30, 1977, and September 30, 1978".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR SPECIAL PROJECTS AND DEMONSTRATIONS

SEC. 6. Section 304(a)(1) of the Act (29 U.S.C. 774(a)(1)) is amended by inserting immediately before the period at the end thereof the following: ", and for the fiscal years ending September 30, 1977, and September 30, 1978, such sums as the Congress may determine to be necessary".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR NATIONAL CENTER FOR DEAF-BLIND YOUTHS AND ADULTS

SEC. 7. Section 305(a) of the Act (29 U.S.C. 775(a)) is amended by striking out "and" immediately after "1975," and by inserting immediately before the period at the end thereof the following: "September 30, 1977, and September 30, 1978".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR PROGRAM AND PROJECT EVALUATION

SEC. 8. Section 403 of the Act (29 U.S.C. 783) is amended by striking out "and" immediately after "1975," and by inserting immediately after "1976," the following: "September 30, 1977, and September 30, 1978,".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR SECRETARIAL RESPONSIBILITIES

SEC. 9. Section 405(d) of the Act (29 U.S.C. 785(d)) is amended by striking out "and" immediately after "1975," and by inserting immediately before the period at the end thereof the following: ", and such sums as may be necessary for the fiscal years ending September 30, 1977, and September 30, 1978".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

SEC. 10. Section 502(h) of the Act (29 U.S.C. 792(h)) is amended by striking out "and" immediately after "1975," and by inserting immediately before the period at the end thereof the following: ", and such sums as may be necessary for the fiscal years ending September 30, 1977, and September 30, 1978".

The SPEAKER. Is a second demanded?

Mr. QUIE. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. BRADEMAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill before us today represents a timely authorization of programs carried on under the Rehabilitation Act. The act is presently authorized through fiscal year 1976. This bill would extend the authority for all of the programs operated under the act for 2 additional years; that is, through fiscal years 1977 and 1978.

Specifically, Mr. Speaker, authorizations are provided in the bill for the basic Federal-State program of vocational rehabilitation for 1977 in the amount of $740 million and in fiscal year 1978 of $760 million.

The State-Federal program of vocational rehabilitation has represented, for over 55 years, the best example of a genuine partnership that effectively meets the needs of handicapped individuals.

The basic objective of the State-Federal program is to provide rehabilitation services which assist physically and mentally handicapped individuals to become employable.

Mr. Speaker, much of the successful development of the vocational rehabilitation program has been the result of the effective use States have been able to make of advanced information on State allotment figures for the basic rehabilitation program. State allotments for the basic program are computed in part on the specific dollar authorization for the basic program provided in the Rehabilitation Act. With the advance State allotment information, which for the most part has been available in the past, States have been able to plan effectively for the orderly growth of their programs and to estimate and appropriate sufficient State funds to match available Federal support.

With this factor in mind, handicapped clients, as well as State directors of vocational rehabilitation programs, have advised the committee of the importance of extending, as soon as possible, the authorization for Federal support of State programs of vocational rehabilitation services through fiscal years 1977 and 1978.

Mr. Speaker, unless Congress acts now to extend the authorizations, States will be unable to determine how much Federal money they can anticipate in fiscal year 1977 for their program of vocational rehabilitation—and thus, they will be unable to plan their State expenditures accordingly. The proposed additional year of authorization will further give stability to a program which over the last several years has been on a year-to-year extension authority.

Because the authorization for the basic State programs constitutes a commitment of Federal funds to which each State is entitled if sufficient State funds are appropriated to match the State allotment, it is imperative that States have available sufficient matching funds.

Enactment of H.R. 11045, providing for a 2-year extension of vocational rehabilitation programs, would facilitate orderly and timely administration of programs at State and local levels. At the Federal level, enactment of H.R. 11045 will mean that there will be no delays in the appropriation process because of a failure to have a timely authorization.

Mr. Speaker, the overall achievements of the vocational rehabilitation efforts clearly indicate the value of making a greater Federal investment. Several cost-benefit analyses of the rehabilitation program have been completed. Although these analyses differ with respect to methods and assumptions, they all agree on one crucial fact—the benefits of the rehabilitation program are many times its cost. Estimates of the ratio of benefits to costs have ranged as high as $35 returned to the Federal Treasury for every Federal dollar of investment.

In addition to the contribution to the gross national product, it is estimated that these individuals, at a minimum, will be contributing approximately 5 percent of their total income—or $60 million—to Federal, State, and local governments in taxes. This contribution, of course, is in addition to the estimated savings to the Government through either the removal of clients from the public assistance rolls or by a reduction in dependency of clients. The taxes paid by those persons rehabilitated, together with savings from welfare payments, represent only the initial annual financial benefits derived from this program.

H.R. 11045 extends the authorizations in the Rehabilitation Act of 1975 for fiscal year 1977 and fiscal year 1978. The authorization for the basic program for fiscal year 1976 was $720 million, the same amount being appropriated. The authorization for fiscal year 1977 is $740 million and for fiscal year 1978 is $760 million, the additions being increases of only 2.8 and 2.6 percent respectively.

Mr. Speaker, with regard to another State grant program extended by H.R. 11045, the program of innovation and expansion projects to provide new methods of rehabilitating handicapped persons, the bill would provide authorizations of $25 million each of the 2 years.

Mr. Speaker, I would also call attention to the other provisions of the act which deal with research, training, construction, training services, special projects, and evaluation. The bill provides authorization of such sums as may be deemed necessary. I personally have been disappointed over the past few years with the decreasing appropriations provided in the areas of innovation and expansion, research, and training, and, when the opportunity next arises, I urge my colleagues to give more support for these activities.

Mr. Speaker, at this point I would like to thank all of the members of the Committee on Education and Labor for their support of this bill. In particular, I would like to thank the distinguished chairman of the Education and Labor Committee (Mr. PERKINS) and the distinguished ranking minority member (Mr. QUIE) for their support in bringing this measure before you today.

Let me also point out that H.R. 11045 was reported to the House unanimously by the members of the Education and Labor Committee.

Mr. Speaker, this is actually only a modest increase in financial support, and it is my hope that this body will give an overwhelming vote of confidence to this program which means so much to so many handicapped individuals.

I urge all my colleagues to give their strong support to this measure.

Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the committee, the gentleman from Kentucky (Mr. PERKINS).

Mr. PERKINS. Mr. Speaker, initially I want to compliment the distinguished chairman of our Subcommittee on Select Education, JOHN BRADEMAS, for his efforts in connection with H.R. 11045. Timely authorizations for rehabilitation programs are imperative and I wish to congratulate Chairman BRADEMAS for his foresight and leadership in bringing this bill to the floor today to assure stability and continuity in the important Federal-State program of rehabilitation.

I wish to commend also members of the committee from both sides of the aisle for their cooperation and support.

The rehabilitation program, which was initiated in 1920, is often and correctly cited as a model of effective Federal-State humanitarian action.

Mr. Speaker, it has been both an honor and a pleasure for me to have been associated with the rehabilitation program and rehabilitation legislation during my years in Congress.

Aware of the great need for rehabilitation services in my own congressional district—particularly with respect to disabled coal miners—in the early fifties I worked with members of the committee, and in particular with our former colleague, Carl Elliott, on legislation to expand and strengthen the rehabilitation program.

Our efforts then eventually led to the enactment of major legislation in 1954. With strong congressional support and the unique leadership of Mary Switzer in the administration, the rehabilitation program grew and grew during the fifties and the early sixties.

Again with overwhelming support in the Congress and under the leadership of the Committee on Education and Labor, in 1965 we enacted legislation to take still another significant step forward in the rehabilitation effort.

After this, we worked in our committee with our colleague, DOM DANIELS, and now with the chairman of our Subcommittee on Select Education, JOHN BRADEMAS, to bring the rehabilitation program to a point where today we are serving over 2 million persons annually and rehabilitating over 300,000 handicapped individuals.

Mr. Speaker, at this time also I wish to compliment the many dedicated people in my home State of Kentucky who are involved in the rehabilitation effort. Under the leadership of my dear friend, Ben Coffman, the State of Kentucky continues to make significant progress with the rehabilitation program. I am proud that my State ranks fourth in the Nation in the number of persons rehabilitated per 100,000.

In 1975, over 55,000 handicapped clients were served. This represents a 15-percent increase over the numbers served in 1974. There was also an increase in the numbers of persons rehabilitated with 10,722 handicapped individuals provided rehabilitation services which brought them back into employment.

Instrumental in this rehabilitation effort are the services being rendered by the new Eastern Kentucky Comprehensive Rehabilitation Center at Thelma, Ky., which I have been associated with since the early days of this facility.

Mr. Speaker, unlike many other programs, it is important—in fact necessary—that the States have early information on the amount of Federal moneys they may receive under the Rehabilitation Act.

It is for this reason that we are proc-

essing this legislation today. It is our hope that H.R. 11045 will become law before the end of this calendar year. This will mean that State legislatures meeting in the early months of 1976 will have the necessary information so that appropriate State financing can be provided for the rehabilitation program.

This is a 2-year extension with very reasonable authorizations. For the current fiscal year, $720,000,000 is authorized for the basic Federal-State program, and the pending appropriation is at that level.

For fiscal year 1977 H.R. 11045 proposes an increase of $20,000,000 bringing the authorization to $740,000,000 and for fiscal year 1978 another $20,000,000 is added, bringing the authorization to $760,000,000. These increases are less than 3 percent.

The innovation and expansion program is authorized at $25,000,000 for each year. This actually represents a decrease from the existing authorization of $42,000,000. The proposed authorizations are however in line with the pending appropriation of $18,000,000 for fiscal year 1978.

Mr. Speaker, it is our intention to review next year in hearings the substantive issues in the rehabilitation program. As my colleagues know, the 1973 act made major changes in all of the rehabilitation programs. Some of these changes are just now being implemented and it would be unwise in my view to at this time legislate still further changes.

We must very thoughtfully and carefully evaluate and monitor the new act and having this straight extension will allow us to proceed without the pressures of expiration deadlines.

Mr. Speaker, I know of no objection to the legislation. To the contrary, persons at the State and local levels and in private organizations involved in the rehabilitation effort all are in support of it. I urge unanimous approval of H.R. 11045.

Mr. Speaker, at this point, I should like to insert a chart which compares existing authorizations, pending appropriations and the authorizations proposed in H.R. 11045:

COMPARISON OF AUTHORIZATIONS IN H.R. 11045 WITH FISCAL YEAR 1976 AUTHORIZATIONS AND APPROPRIATIONS

	Authorizations fiscal year 1976	Appropriations fiscal year 1976 [1]	H.R. 11045 authorizations fiscal year 1977	H.R. 11045 authorizations fiscal year 1978
Basic State services, sec. 100 (b)(1)	$720,000,000	$720,000,000	$740,000,000	$760,000,000
Innovation and expansion, sec. 100(b)(2)	42,000,000	18,000,000	25,000,000	25,000,000
Research, sec. 201(a)(1)	32,000,000	24,000,000	[2]	[2]
Training, sec. 201(a)(2)	32,000,000	22,200,000	[2]	[2]
Facilities construction sec. 301(a) and vocational training services, sec. 302(a)	[2]	8,000,000	[2]	[2]
Mortgage insurance, sec. 303	[2]	0		
Special projects	20,000,000	4,900,000	[2]	[2]
National Center for Deaf-Blind, sec. 305(a)	[2]	2,100,000	[2]	[2]
Secretarial responsibilities, sec. 405	600,000	200,000	[2]	[2]
Architectural and Transportation Barriers Compliance Board, sec. 502(h)	1,500,000	300,000	[2]	[2]

[1] H.R. 8069, Labor-HEW appropriations bill for fiscal year 1976 awaiting Presidential action.

[2] Such sums.

Mr. BRADEMAS. Mr. Speaker, I thank the chairman of the committee for his remarks.

I yield 2 minutes to the gentleman from Florida (Mr. LEHMAN), a member of the subcommittee, who has been very helpful in working on this legislation.

Mr. LEHMAN. Mr. Speaker, once again I want to compliment the gentleman from Indiana and the chairman of the committee, the gentleman from Kentucky (Mr. PERKINS) for their work in bringing this legislation to the floor. My present concern relates to the State of Florida's Department of Health and Rehabilitative Services and the conflicts that this legislation has with some of the rules and regulations as laid down by the Florida Legislature in a recent reorganization act.

As a Member of Congress, my first responsibility is to see that the Congress has the proper oversight control over the Federal dollars that we authorize and appropriate, and that this money does not, and is not misplaced or misused in the political bureaucracies at either the Federal or State level. We must see that the State agencies are accountable in regard to these Federal funds, but also I understand the State's concern in regard to the manner in which rehabilitative funds are allocated.

The overriding problem however, is to be sure that the people for whom this legislation is written, the people who need these rehab services, will not in any way be adversely affected by the conflict that may or may not develop between Federal law and the implementation of these services by the State agencies.

I will work diligently and long at both the State and the Federal level to reconcile whatever these differences are so that we can go ahead with these badly needed and necessary health and rehabilitative services.

Mr. BRADEMAS. Mr. Speaker, I want to take just a moment also to pay particular thanks to the distinguished ranking minority member of the committee, the gentleman from Minnesota (Mr. QUIE), for his very important contribution to the legislation under consideration.

Mr. Speaker, I reserve the balance of my time.

Mr. QUIE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 11045, the extension for 2 years of the Vocational Rehabilitation Act.

Mr. Speaker, as the gentleman from Indiana (Mr. BRADEMAS) has indicated, it is extremely important that we enact this important legislation now so that the States will know just what they will be matching in the coming fiscal year. As you know most of the State legislatures are meeting this coming January.

Mr. Speaker, this legislation is different than most, in that the States match against authorizations and not appropriations. Since there are no authorizations for fiscal year 1977 or fiscal year 1978, realistic State planning is not possible. I would say that the authorizations are reasonable and represent only a slight increase over the existing authorization and appropriation levels—which are the same. Surely there can be no objection to these levels. The question really is not whether we have authorized too much; the question is whether we have authorized enough.

This legislation is important so that the States may be able to plan and project for both their matching share as well as program direction. The enactment of this legislation today will give some stability to the program. I compliment the gentleman from Indiana (Mr. BRADEMAS) for his promise to hold extensive hearings covering all aspects of this legislation during the early part of the next session of Congress. By passing this bill today we will be able to focus on all facets of the program without becoming bogged down with dollar figures. Therefore, if as a result of the hearings next year we deem it necessary to make changes in the program, we will not have to come to the floor and fight over authorization levels for each of the titles of the bill but will be able to deal strictly with the substance of those issues.

Many of my colleagues feel that, under the formula their States are not receiving an adequate amount. I feel it will be unfortunate if we engage in a debate on that subject at the present time. Anybody who feels the formula should be changed can bring their proposal before the committee next year. Those who feel we may be getting into trouble because of the preference for the most severely handicapped can also make their proposals. Congress felt very strongly the severely handicapped were not being helped in the past, and that is why we passed the legislation as we did in 1973.

I would say, Mr. Speaker, to my colleagues that this is a must legislation. We ought to pass it now and we ought to enact it into law before we go home for the Christmas recess.

Mr. BRADEMAS. Mr. Speaker, I have no further requests for time.

Mr. Speaker, I urge support of the bill.

The SPEAKER. The question is on the motion offered by the gentleman from Indiana (Mr. BRADEMAS) that the House suspend the rules and pass the bill (H.R. 11045).

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

NATIONAL READING IMPROVEMENT ACT AMENDMENTS

Mr. PERKINS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 8304) to amend the national reading improvement program to provide more flexibility in the types of projects which can be funded, and for other purposes, as amended.

The Clerk read as follows:

H.R. 8304

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

STATE LEADERSHIP AND TRAINING PROJECTS

SECTION 1. Section 705(a) of the Education Amendments of 1974 is amended by adding at the end thereof the following new paragraph:

"(3)(A) Notwithstanding the requirements of paragraphs (b) through (g) of this section, the Commissioner is authorized to enter into agreements pursuant to this paragraph with State educational agencies for the carrying out by such agencies of leadership and training activities designed to prepare personnel throughout the State to conduct projects which have been demonstrated in that State or in other States to be effective in overcoming reading deficiencies. These activities shall be limited to (i) assessments of need, including personnel needs, relating to reading problems in the State, (ii) inservice training for local reading program administrators and instructional personnel, and (iii) provision of technical assistance and dissemination of information to local educational agencies and other appropriate nonprofit agencies.

"(B) Not to exceed $5,300,000 of any sums appropriated pursuant to subsection (a) of section 732 for any fiscal year may be used for carrying out this paragraph.".

READING PROGRAM REQUIREMENTS

SEC. 2. (a) Section 705(b) of such Act is amended by striking out "Each such application shall set forth a reading program which provides for—" and by inserting in lieu thereof "Each such application shall set forth a reading program which provides for the following (except that the requirements contained in paragraphs (4) and (13) shall be met to the extent practicable)—".

(b) Section 705(c) of such Act is amended by striking out ", in addition to meeting the requirements of subsection (b)", and by inserting in lieu thereof ", in addition to meeting the requirements of subsection (b), except for paragraphs (4) and (13) thereof,".

(c) Section 705(c)(3) of such Act is amended by inserting "at" before the phrase "which such preelementary".

(d) Section 705(e) of such Act is amended to read as follows:

"(e) No agreement may be entered into under this part unless the application submitted to the Commissioner has first been approved by the State educational agency."

STATE ADMINISTRATIVE COSTS

SEC. 3. Section 705 of such Act is amended by adding at the end thereof the following new subsection:

"(h) From the sums appropriated for the purposes of this part for any fiscal year, the Commissioner may pay to each State educational agency, in addition to any amounts paid to such agency pursuant to subsection (a) of this section, the amount necessary to meet the costs of carrying out its responsibilities under this section, including the costs of the advisory council required to be established pursuant to subsection (d). However, such amount may not exceed 3 per centum of the total amount of grants under this part made within that State for that fiscal year."

STATE ADVISORY COUNCILS

SEC. 4. Section 714 of such Act is amended by adding at the end thereof the following new subsection:

"(f) The functions of the State advisory council on reading, required to be established by subsection (a)(2) of this section, may be carried out by the State advisory council created pursuant to section 705(d)(1)."

READING ACADEMIES

SEC. 5. Section 723(a) of such Act is amended by inserting "in-school as well as out-of-school" before "youths".

SEC. 6. Part C of title VII of such Act is amended by adding the following new section after section 723:

"NATIONAL IMPACT READING PROGRAMS

"SEC. 724. (a) The Commissioner is authorized to carry out, either directly or through grants or contracts, (1) innovation and development periods and activities of national significance which show promise of having a substantial impact in overcoming reading deficiencies in children, youths, and adults through incorporation into onging State and local educational systems throughout the Nation, and (2) dissemination of information related to such programs.

"(b) Not to exceed $600,000 of any sums appropriated pursuant to subsection (a) of section 732 for any fiscal year may be used for carrying out this section."

REPORTING DATE

SEC. 7. Section 731(a) of title VII of such Act is amended by striking out "March 31" and inserting in lieu thereof "February 1".

ACCEPTANCE OF GIFTS BY AN ADMINISTRATIVE HEAD OF AN AGENCY

SEC. 8. Part D of such Act is amended by adding the following new section after section 732:

"ACCEPTANCE OF GIFTS

"SEC. 733. Notwithstanding the provisions of section 408(a)(3) of the General Education Provisions Act, the Commissioner may accept on behalf of the United States, gifts or donations made with or without conditions of services, money or property (real, personal, or mixed; tangible or intangible) made for any activities authorized to be carried out by such agency under the authority of this title.".

INEXPENSIVE BOOK DISTRIBUTION PROGRAM FOR READING MOTIVATION

SEC. 9. (a) Part C of title VII of such Act is amended by adding at the end thereof the following new section:

"INEXPENSIVE BOOK DISTRIBUTION PROGRAM FOR READING MOTIVATION

"SEC. 725. (a) The Commissioner is authorized (1) to enter into a contract with a private nonprofit group or public agency (hereinafter in this section referred to as the 'contractor'), which has as its primary purpose the motivation of children to learn to read, to support and promote the establishment of reading motivational programs which include the distribution of inexpensive books to students and (2) to pay the Federal share of the cost of such programs.

"(b) This contract shall provide that—

"(1) the contractor will enter into subcontracts with local private nonprofit groups or organizations or with public agencies (hereinafter referred to as 'subcontractors') under which the subcontractors will agree to establish, operate, and provide the non-Federal share of the cost of reading motivational programs which include the distribution of books by gift, loan, or sale at a nominal price to children in preelementary, elementary or secondary schools;

"(2) funds made available by the Commissioner to a contractor pursuant to any contract entered into under this section will be used to pay the Federal share of the cost of establishing and operating reading motivational programs as provided in paragraph (1);

"(3) the contractor will meet such other conditions and standards as the Commissioner determines to be necessary to assure the effectiveness of the programs authorized by this section and will provide technical assistance in furtherance of the purposes of this section.

"(c) The Commissioner shall make no payment of the Federal share of the cost of acquiring and distributing books pursuant to a contract authorized by this section unless he determines that the contractor or the subcontractor, as the case may be, has made arrangements with book publishers or distributors to obtain books at discounts at least as favorable as discounts that are customarily given by such publisher or distributor for book purchases made under similar circumstances in the absence of Federal assistance.

"(d) For purposes of this section—

"(1) the term 'nonprofit', when used in connection with any organization, means an organization no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual;

"(2) the term 'Federal share' means, with respect to the cost of books purchased by a local private nonprofit group, organization, or public agency for a program in a locality for distributing such books to schoolchildren in that locality, 50 per centum of the cost of that agency or group or organization for such books for such program;

"(3) the term 'preelementary school' means a day or residential school which provides pre-elementary education, as determined under State law, except that such term does not include education for children who have not attained three years of age;

"(4) the term 'elementary school' has the same meaning as provided in section 801(c) of the Elementary and Secondary Education Act of 1965; and

"(5) the term 'secondary school' has the same meaning as provided in section 801(h) of the Elementary and Secondary Education Act of 1965."

(b) Section 732 of such Act is amended by adding at the end thereof the following new subsection:

"(e) There are authorized to be appropriated to carry out the provisions of section 725, relating to inexpensive book distribution programs for reading motivation, $4,000,000 for the fiscal year ending June 30, 1976, and $9,000,000 for each of the following two fiscal years. Under such conditions as the Commissioner determines to be appropriate, not to exceed 10 per centum of the amounts appropriated for each fiscal year shall be available for a contract from the Commissioner to the contractor designated under section 725 for technical assistance under subsection (b)(3) of section 725 to carry out the provisions of such section."

The SPEAKER. Is a second demanded?

Mr. QUIE. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from Kentucky (Mr. PERKINS) will be recognized for 20 minutes, and the gentleman from Minnesota (Mr. QUIE) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Kentucky (Mr. PERKINS).

Mr. PERKINS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill before us has two purposes.

The first purpose is to authorize the Office of Education to continue funding worthwhile reading activities which it had been funding during fiscal year 1975, but which it will not be able to fund during this present fiscal year due to certain changes made in the law. These activities principally involve making grants to State educational agencies for leadership and training activities related to reading programs. No additional authorization of appropriations are needed to fulfill this purpose.

I am inserting at this point in the record a chart which describes the reading activities which had been carried on by the Office of Education during fiscal year 1975, the activities the Office of Education will be able to carry on under the existing law in fiscal year 1976, and the activities the Office of Education will be able to continue if H.R. 8304 is enacted:

DISTRIBUTION OF READING FUNDS BY ACTIVITY, FISCAL YEARS 1975–1976

[In millions]

Type of activity:	Fiscal year 1975	Tentative fiscal year 1976 [1] Prior to H.R. 8304	Tentative fiscal year 1976 if H.R. 8304 adopted
State educational agencies	$5.2	----	$5.3
Part A, LEA demonstrations	[2] 1.3	$10.2	5.2
Part B, State grants	----	----	----
Special emphasis projects	----	1.0	1.0
Reading academies	1.4	5.6	4.7
Evaluation	----	0.2	0.2
Community projects	2.0	----	----
Teacher preparation	1.5	----	----
National impact	0.6	----	0.6
Total	[2] 11.9	17	17

[1] If recission not accepted.
[2] Items don't equal total because of rounding.
[3] School-based projects comparable to part A projects.
Source: Department of HEW.

The second purpose of the bill is to authorize a new Federal program to provide funds to a private nonprofit or public group for purchasing books to be distributed to children free or at a nominal cost. Reading is Fundamental, Inc., is the model program for this legislation. That organization, since 1966, has distributed over 5½ million books to 3 million children. The bill authorizes $4 million for fiscal year 1976 to carry out a program of book distribution. For fiscal years 1977 and 1978, $9 million a year would be authorized.

I would like to mention at this point the tremendous efforts which Mrs. Robert McNamara has put into making Reading is Fundamental such a successful program. She has been tireless in her work. And millions of youngsters read better today because of that work.

H.R. 8304, as amended, was reported from the Committee on Education and Labor unanimously on December 9.

Mr. Speaker, I would now like to go into somewhat more detail on the provisions of H.R. 8304.

SUMMARY OF THE BILL

H.R. 8304, as reported by the committee, amends the National Reading Improvement Act—title VII of the Education Amendments of 1974—to provide more flexibility in the types of projects which can be funded under the act. Two basic changes are achieved by these amendments.

The purpose of the first set of amendments is to allow the U.S. Office of Education to continue to fund some of the same types of programs under the National Reading Improvement Act during fiscal year 1976 and beyond that it has funded in previous years under the right to read program. These activities include providing funds to the States for leadership and training programs and providing funding for reading programs having a national impact. No additional authorizations of appropriations are needed to accomplish this purpose.

The second purpose of the bill as reported is to authorize the Commissioner of Education to contract with a private nonprofit group or a public agency for the distribution of inexpensive books to children to motivate them to take a more active interest in reading. Under the bill, the Commissioner can pay up to 50 percent of the costs of purchasing these books through a contract with such an organization as Reading is Fundamental, Inc. For fiscal year 1976 there would be authorized $4 million for this purpose; and for each of the 2 succeeding fiscal years there would be authorized $9 million.

NEED FOR LEGISLATION

Although the country enjoys a high rate of literacy, we still face serious reading problems among our population. A recent survey by the University of Texas showed that almost 20 percent of adult Americans are unable to cope with daily tasks such as addressing an envelope. A basic cause of this inability to cope with daily life lies in a poor reading ability.

We also have evidence that the reading ability of our youths is declining. For the past 12 years test scores on the college entrance examinations have been declining, with the most dramatic decline being experienced this past year.

The Federal Government has sought to assist educators in finding solutions for this problem of poor literacy through the right to read program, begun in 1971. A good deal has been achieved through the right to read program although its impact has been inherently limited by relatively small appropriations.

In the Education Amendments of 1974 Congress sought to upgrade the Federal Government's efforts in this area by enacting the National Reading Improvement Act. That act was structured in such a way as to lead to a substantial Federal commitment to help the States and local school disrticts in eradicating illiteracy. Due to our Nation's economic problems, however, appropriations for that act have not been much greater than appropriations were for the right to read program.

That is one of the major reasons why the committee has reported H.R. 8304. The bill is meant to allow the Office of Education to continue to fund certain worthwhile reading programs under the new act which it had been funding under the discretionary right to read program. These activities principally involve providing grants to the States for leadership and training programs and providing funds for programs having a national impact.

The Office of Education cannot fund these activities this year under the new act because the act was designed to be a direct grant program by the U.S. Office of Education for school-based programs until the appropriations reach $30 million. Then, funding would have to go through the States. H.R. 8304 would retain this format of the law, but it would make these two exceptions—for State training activities and national impact programs.

These exceptions, however, would be limited to the present levels of funding so that the basic thrust of the act would be retained. It is essential to keep the basic format for the act because an appropriations level of $30 million is needed before a full-fledged State grant program can be effective. Until that level is reached, direct grants by the U.S. Office of Education to States and local school districts is the more effective approach.

We have not continued the authority for the community-based programs or for the teacher preparation programs since it was felt that these activities do not fit into the thrust of the new act. The Office of Education, of course, can continue to fund these programs with its own discretionary funds if it so desires.

The bill also contains several relatively minor amendments to the act. The first of these minor amendments waives two requirements for school-based reading programs since it was felt that they could prove to be too burdensome for many worthwhile small projects. The second amendment simplifies the functions of the State advisory councils. The third amendment provides funds to the States

for administrative expenses and for the advisory councils.

The second purpose of H.R. 8304 as reported is to create a new program for a contract to a private nonprofit or public agency to distribute inexpensive books to children in order to motivate them to read. There would be authorized $4 million for fiscal year 1976 for this purpose, and $9 million each for fiscal years 1977 and 1978.

We have found through countless hours of testimony in the committee that one of the most important, if not the most important, aspect of education is motivation. A child's motivation to learn can be stimulated by his or her home environment, by his or her own colleagues, or by teachers. We have found that motivation can also be stimulated by ownership of books.

Most of us forget that millions of youngsters throughout the country do not have books in their homes. Some youngsters also do not have books available to them through their schools.

Reading is Fundamental, Inc. has since 1966 worked to provide books to youngsters in order to stimulate them to learn. Five and one-half million books have been provided to over 3 million children. These books are distributed at a nominal cost or free to these children.

The committee's bill would authorize funds for the Commissioner of Education to contract with Reading is Fundamental, Inc. or with a similar organization for the purpose of paying 50 percent of the cost of buying books to be distributed to children. The committee has been very impressed by Reading is Fundamental's success, and we believe that this small amount of Federal funds will be well spent in continuing RIF's program or in funding a similar program.

We would like to make clear for the purpose of legislative history that the intention of the amendment contained in the bill authorizing this book distribution program, is to permit funds to be used to purchase these reading materials for all children, whether they attend public or private schools.

Mr. Speaker, I believe that the bill before us will lead to sound improvements in the Federal Government's efforts to improve reading in this country. Therefore, I urge the House to suspend the rules and pass the bill.

Mr. Speaker, I do want to state that the distinguished gentleman from Minnesota (Mr. QUIE), the author of the legislation, has done an outstanding job, not only on this legislation but on all the legislation that comes out of the Committee on Education and Labor. The gentleman is certainly to be complimented for his work on this particular piece of legislation.

Mr. Speaker, I urge the adoption of the bill. I know of no opposition to the bill in the House. It will serve a good purpose, and there is very little money involved for expenditure.

Mr. QUIE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 8304. The bill before us combines, with some minor amendments, the texts of two bills which I introduced earlier in this session, H.R. 8304 and H.R. 9048. Both bills amended the National Reading Improvement Act of 1974.

Several of the amendments to the Reading Act contained in the committee-reported bill are of a technical nature only. Several others, including those in sections 1 and 6, are more substantive and are designed to permit the continuation of programs which were begun under the right to read program of the U.S. Office of Education.

In my view, the most important of these is the amendment in section 1 which will permit the continuation of State leadership and training activities.

I know from my own experience with the Minnesota right to read program that these State directed activities are the most important element in the entire reading effort of USOE.

These amendments are necessary because the legislated structure of the National Reading Improvement Act, signed into law last year as title VII of Public Law 93-380, would have prevented the continuing funding of State-level activities until appropriations for the act exceed $30 million annually. Since the current level of funding is $17 million, the existence of these State-level programs begun years ago under a different legislative authority are in jeopardy. The existing grants, made under authority of the now-repealed Cooperative Research Act, will expire within the next 60 days. Unless both Houses act before the end of this session on this legislation, 45 States, the District of Columbia, and five outlying territories will lose support ranging from $50,000 to $350,000. That would mean both the termination of employment and of programs.

I do wish to make it clear that the language in section 1 is designed to permit States either to provide in-service training directly or to train those who will then go out into local schools directly or to retrain classroom teachers.

In order to give my colleagues an idea of how a successful State reading program functions, I would like to insert at this point an excerpt from a recent statement before the Subcommittee on Elementary, Secondary, and Vocational Education by Mr. Edwin Cain, director of Federal/State programs for the Minnesota Department of Education:

The State Right to Read Program consists of major parts, each of which are vital to systematic change.

1. The establishment of a State "Criteria of Excellence" to serve as a standard of what a reading program should be.

2. A commitment by the school board and school officer to the development of a quality reading program.

3. The amassing of public support to assist in the resolution of the reading problem.

4. The preparation of reading leadership at the local school level.

5. The development of a state and local plan of action.

6. The implementation and evaluation of the plan of action.

The Right to Read State Agency Program was initiated by The Office of Education in 1972 with five states participating in demonstration projects with an initial $10,000 Grant; these five states were to develop a process to impact the National reading problem. In Minnesota, this grant in conjunction with monies made available by the Minnesota Commissioner of Education and the commitment of the Governor of the State of Minnesota, gave impetus to the development of the Minnesota Right to Read strategy. It is important to know the premises on which this program was built. They are vital to its success.

1. All but one per cent of the population can be taught to read, the parents have the right to expect that each one of their children will learn how to read.

2. Drastic reform is necessary of at least that part of the educational system which has so consistently produced such a large number of functionally illiterate individuals.

3. The needed reform is not something that can be purchased, because no solution appears to be for sale. More money alone will thus not solve the problem. The solution will need to be built rather than bought.

4. The needed reform must be comprehensive in order that rural as well as urban, small as well as large, and non-public as well as public school districts are served equally. By comprehensive we also mean that the out-of-school illiterate is served as well as the in-school population.

5. The needed reform must be systematic and pervasive, rather than consisting of a stab here and a stab there. Random demonstration projects cannot solve the problem, for a system cannot be changed by merely working with a component—one teacher at a grade level, one grade level in a school, one school in a district, or one or two districts in a state. A system is changed by systematically getting to everyone and everything directly. Minnesota has 430 school districts and 464 non-public schools. All contribute to the problem. The solution will not be realized by only working with a few. The nation has about 18,000 school districts. The implication should be apparent.

6. The plan for reform must be replicable. Not only should the plan permit us to solve our immediate problems in the area of reading, but it will hopefully apply to the solution of other problems and in other locales.

7. The plan for reform must have clearly stated objectives, defined action steps, the necessary human and dollar resources, a broad base of support, and a limited amount of time in which to complete the task.

Proceeding from the established premises, the plan was developed. It appeared that in order to eradicate functional illiteracy in Minnesota's schools and out-of-school adult population, the state should attempt to do two things. The state should provide direct technical assistance to local education agencies (LEA's) for an extended period of time in order that quality reading programs may come to eventually be built. By technical assistance we mean the kind of help and knowledge that the typical LEA is unable to buy for itself. By local education agency, (LEA) we mean each and every public school district (436) and nonpublic school (464) which voluntarily seeks help. By extended period of time, we mean up to three and one-half years. By quality reading programs, we mean programs which are able to meet the State of Minnesota Criteria of Excellence in Reading Programming. The technical assistance will help LEA's to achieve these criteria. This role of being a provider of technical assistance on a massive scale is new to the State Department of Education.

The state should also seek to ensure that each LEA come to eventually possess its own technical assistance person. We will call this person a reading director. This will be a leadership position. The reading director will be prepared to assume this role by completing a program of preparation, a curriculum, as conducted by State of Minnesota personnel.

On October 2, 1972, the Minnesota State Board of Education created a new position in Minnesota schools, that of reading director in Right to Read LEAs. A local education agency which designates a person as reading

director may consider that person legally qualified to serve in that position upon his/her completion of the program of preparation.

The Minnesota Plan assumes that if an LEA is able to truly achieve the Criteria of Excellence, and if the LEA is served by a truly competent reading director, it will follow that functional illiteracy will be on its way to eradication. There is no single component more essential for educational reform in reading than the development of a "Criteria of Excellence." It provides the basis for assessing school district and community needs; it identifies the areas of training need for teachers and administrators; it serves as an evaluative tool in determining progress toward the stated goal and it alleviates the fear of change by showing what changes are to be made.

The Criteria of Excellence in Minnesota was established by the State Advisory Council for Reading. This Council included educators, parents, reading specialists, and a variety of others who represented concerns about reading and the educational system. Educators are too prone to avoid the identification of specific learning objectives. The Criteria of Excellence clearly stated what an effective, failure-proof, reading program in the public and private schools should be. This document served as a guide for school districts in the development of a comprehensive approach toward meeting the reading needs of children and adults.

The document not only deals with the institutional process, but also addresses all areas of the educational process which impinge upon learning. Certain criteria addressed the administration and organization of the reading program. There was a commitment to student learning and not just to staff teaching. The organization and management of the classroom was clearly addressed, as well as local community leadership and organization. The Criteria of Excellence recognized that a program must be comprehensive, not just dealing with one segment or a few grades of the school program, but addressing a pre-school through adult effort. It stressed the use of community resources and supported the development and initiation of intensive in-service training for teachers, support services for the administration, faculty, staff, volunteers, and parents.

Such a Criteria of Excellence has been developed in thirty-one Right to Read States along with a commitment to implement such a program on a schedule designed by each participating state agency.

In Minnesota we begin by a 240 hour training program of local reading directors from 22 pilot districts selected regionally throughout the State. Each of these reading directors were responsible for the initiation of Right to Read Programs in their local districts, whether they be public school or private school districts. From that group of 22 local reading directors 8 were selected to serve as regional directors and to implement our "multiplier effect." The second phase of the program found each of the regional directors conducting classes of preparation for 20 or more new reading directors within their respective regions. By continuing this process over five phases in the past three years, we have now provided reading leadership at the local level in nearly three-fourths of our 440 school districts and 200 plus private school districts.

The larger school districts such as Minneapolis and St. Paul determined that the program would be more effective in the metropolitan schools if a reading director was prepared and assigned to each of the units within their school district. Minneapolis, for example, has employed seven reading directors, each of which has been assigned to an educational pyramid, i.e., a senior high school plus the "feeder" junior high schools and elementary schools within a specific geographical location.

In some of the small school districts and in the private schools, the position of the reading director may be combined with that of a master teacher or a principal. The important factor is that a specific, trained individual be delegated both the responsibility and the authority to carry out those functions that will reshape the system to meet the reading needs of children, youth and adults.

What impact has this strategy had on the reading program in Minnesota? This is the vital question.

Participation.—Nearly three-fourths of Minnesota's 1,000,000 students attend public or private schools committed to Right to Read concepts. This feat has been accomplished in three years with no promise of money to local school districts, only the opportunity to improve the quality of education. They receive only technical assistance, reading leadership training, and an opportunity to share reading program materials and ideas with each other.

Volunteers.—The greatest untapped resource this nation has in education are the citizens themselves. Parents, senior citizens, and students are currently providing millions of hours in volunteer services to the Minnesota Right to Read Effort.

In the adult literacy program alone, more than 3,000 volunteer tutors have completed 12 hours of training and are working in every section of the state, providing the opportunity for adult non-readers to overcome a handicap more severe than many physical and mental handicaps.

Finance.—The Minnesota State Legislature has added over a million dollars to this effort. ESEA Title V funds also were used to increase the initial Federal grants. Seven other states now have passed or have pending legislation supporting their respective Right to Read programs.

Evaluation.—Minnesota has initiated a twelve phase evaluation program which includes statewide assessment of reading skills. These studies have indicated a surging enthusiasm for the Right to Read effort by teachers, administrators, parents, and others surveyed. But most significant, a study conducted by an independent evaluation firm of 22 Right to Read districts, found after seven months of program involvement that students in Right to Read districts achieved 2½ times more than students from nonparticipating districts.

Other Factors.—The Right to Read concept encourages, supports, and enhances reading programs for all students. We all recognize the need for programs for the gifted and talented, but litle has been done except in isolated demonstration programs to provide for the needs of these students. However, under the Right to Read "umbrella," the Great Books Program has increased from 14 school districts serving 1800 children in 1972, to 110 school districts serving 25,000 students in 1975. Similar growth has been observed with RIF, Book Fairs, and other reading program activities.

Similar results are taking place in States across the nation, but it takes time to set in motion a program of the magnitude reached through the Right to Read State Agency Effort. The remaining 18 states, Puerto Rico, and the District of Columbia just received planning grants a few months ago. Twenty other states have been in operation a little over two years. To terminate legislative authority for funding at this time is simply unbelievable.

Mr. Speaker, returning to H.R. 8304, sections 2, 3, 4, and 5 are primarily technical in nature.

Section 6 of H.R. 8304 will permit the continuation of certain national impact programs being funded directly by the U.S. Office of Education, including the dissemination of information and the funding of activities such as the development of television programs to teach adults to read.

Sections 7 and 9 are, again, of a technical nature.

Section 9, by contrast, is a highly important section. I need not recite for the Members the number of recent reports which illustrate quite vividly that the average American youngster is leaving high school with lower reading skills than his counterpart did 10 to 15 years ago.

Section 9 authorizes a program aimed at what I consider to be one of the keys to the decline in reading ability—the lack of proper motivation on the part of the student. In many ways that is hardly surprising since in too many homes the presence of a book is a rare sight. The program authorized by section 9 is designed to motivate children to read by giving them, often for the first time, the opportunity to own books.

Each student may pick from among a wide selection of books. He or she then has the opportunity to take that book home, share it with the rest of his family and then, perhaps later, swap it with a friend for another book.

The program I have described has been in operation for 9 very successful years under the name Reading Is Fundamental, Inc. The national chairman of RIF, Mrs. Margaret McNamara, has together with President Dr. Sidney Nelson and Program Director Barbara Atkinson done a superb job in expanding RIF from 18 programs in 1971 to 400 programs in 1975.

The RIF goal is to reach 5 million children by the end of next year. It is clear that the Bicentennial goal will not be achieved without the assistance of the Federal Government.

Since its inception in 1966, RIF has been supported by a variety of foundation and corporate grants including the Ford Foundation, the Old Dominion Fund, the Edna McConnell Clark Foundation, IBM, Ford Motor Co., Alcoa, Union Carbide, A.T. & T., Texaco, CBS, Chase Manhattan Bank, and General Electric. RIF has tapped these private resources to the maximum. If this dynamic program is to expand, it must have help.

The intention of this bill is to provide that help and through RIF to provide motivational reading materials to children whether or not they are in attendance at school or whether they are enrolled in public or nonpublic schools.

This is not a giveaway Federal program. Each community that has a program will be required to match the Federal grant dollar for dollar. In many communities that is done through a combination of donations, fundraising events, and by charging the student a nominal amount for each book.

Sponsors of local programs include such varied groups as the American Association of University Women, B'nai B'rith, Church Women United, Junior Chamber of Commerce, NAACP, Rotary Club, and U.S. Jaycees.

I strongly urge the support of all Members. I know that many of my colleagues

on both sides of the aisle share my own concerns about the need to find better ways to improve the reading skills of the people of this Nation. H.R. 8304 is a small contribution to that cause.

Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. PEYSER).

Mr. PEYSER. Mr. Speaker, very briefly I wish to state that this type of legislation that promotes reading ability of our children, while there is not a great deal of money involved in it, in the terms of what we deal with in the Congress, probably has more positive effect on more people in this country than most of our programs and in a very direct way. I think that if the goal is reached of nearly 5 million children being given books to read in this country through this program we will have made a major contribution.

I would like to wholeheartedly endorse this program and commend the chairman and the minority member for their leadership in making this possible. I hope we will pass this legislation unanimously on the floor of the House.

Mr. PERKINS. Mr. Speaker, I have no further requests for time.

Mr. QUIE. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I have taken this time so that I might commend the chairman of the committee, the gentleman from Kentucky (Mr. PERKINS) for his interest in the school children, his recognition of the fundamental importance of motivating each of them to learn to read and his support of programs to assist the States in carrying out their obligations in the area of reading. That is certainly the basic necessity of education. This legislation will help us toward that goal. I appreciate the willingness of the gentleman to entertain this bill. I am particularly appreciative of his ability to bring the legislation to the floor so promptly. Again I want to commend the gentleman from Kentucky for all of his fine work.

The SPEAKER pro tempore (Mr. MCFALL). The question is on the motion offered by the gentleman from Kentucky (Mr. PERKINS) that the House suspend the rules and pass the bill, H.R. 8304, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that all Members who desire to do so may have 5 legistive days in which to revise and extend their remarks on the bill just passed, H.R. 8304.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

RENEGOTIATION ACT EXTENSION

Mr. MINISH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 11016) to extend the Renegotiation Act of 1951 for 6 months.

The Clerk read as follows:

H.R. 11016

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 102(c)(1) of the Renegotiation Act of 1951 is amended by striking out "December 31, 1975" and inserting in lieu thereof "June 30, 1976".

The SPEAKER pro tempore. Is a second demanded?

Mr. HANSEN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New Jersey (Mr. MINISH) and the gentleman from Idaho (Mr. HANSEN) will be recognized for 20 minutes each.

The Chair now recognizes the gentleman from New Jersey (Mr. MINISH).

Mr. MINISH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 11016, a bill to extend the life of the Renegotiation Act of 1951 until June 30, 1976. At present, the act is scheduled to expire on December 31, 1975.

The Renegotiation Act, as you are probably aware, establishes a process by which the Federal Government, through an independent agency in the executive branch—the Renegotiation Board—attempts to recoup excessive profits from contractors dealing in defense and defense-related industries. The basic concept behind renegotiation is that the American taxpayer should not be overcharged for goods and services relating to the national interest and national security.

The 6-month extension called for in H.R. 11016 will provide both the House and Senate a full opportunity to consider much needed reform of the renegotiation process such as that embodied in H.R. 10680, a bill reported by the Banking, Currency and Housing Committee on December 9. This 6-month extension enjoys broad bipartisan support. It has been cosponsored by every member of the Subcommittee on General Oversight and Renegotiation—both majority and minority sides—and by the chairman and the ranking Republican member of the full House Banking Committee.

Mr. Speaker, I urge approval by the House of H.R. 11016.

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, controversial legislation to renew and expand the provisions of the Renegotiation Act of 1951 (H.R. 10680) has experienced many months of hearings and markup sessions and has now been favorably reported by the House Committee on Banking, Currency and Housing.

It is unfortunate that this legislation was not modified sufficiently to provide for good administration of the act and to prevent oppressive measures against those contracting with the Government.

Mr. HANSEN. Such legislation, if enacted, could handicap Government procurement procedures and result in increased cost to the taxpayers.

However, it now appears that the only program in position to pass the House this year will be a simple extension of the act (H.R. 11016) which we have before us today. This was introduced, as the chairman of the subcommittee has stated, with all members of the subcommittee and both ranking members of the full committee as cosponsors. Hopefully, passage of this extension legislation will provide further opportunity to more adequately define the circumstances of the controversial committee proposal and, perhaps, allow for proper and necessary modification when the matter reaches the House floor possibly sometime in the next 6 months.

Mr. Speaker, at this point I ask unanimous consent to insert in the RECORD the minority views on H.R. 10680 as reported from the Committee on Banking, Currency, and Housing.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Idaho?

There was no objection.

The report is as follows:

MINORITY VIEWS ON H.R. 10680

We are opposed to the enactment of H.R. 10680 which makes broad and controversial changes in the power and authority of the Renegotiation Board. Some of us feel that the Renegotiation Act should be allowed to expire. Others believe that a simple extension within its existing framework would be sufficient. However, at most we are concerned that any modification of the Board's authority should be directed toward its efficient functioning without creating counterproductive costs to the taxpayers by an imposition of excessive demands on government contractors.

It should be recognized that the initial purpose of the 1951 Act, to recover abnormally high profits during periods of mobilization, is no longer valid. We are not in a period of mobilization today. Furthermore, both Congress and the Administration have initiated a series of safeguards over the past decade which, when properly applied to the purchasing process, practically eliminate the possibility of excess profits. Considering that we are in a peacetime economy and recognizing that procurement procedures are continually improving, we see a diminishing need for the renegotiation process.

In fact, there is some question whether this process may not be counterproductive. It is difficult to accumulate accurate figures on how much it costs businesses to comply with the requirements of the Renegotiation Act; however, it has been conservatively estimated that these costs to business run some $72 million per year which are added into the price of products sold. The Board's expenses run some $5 million per year for a total cost of $82 million. Between 1968 and 1974, the Board's recoveries averaged only $40 million. This results in a net loss to the American economy of $42 million per year.

Proponents of this legislation like to cite horror stories—exceptional cases—to justify the continuation and expansion of the renegotiation process. They would have you believe that defense contracting is the road to riches. A more objective analysis by the General Accounting Office demonstrates that this is not so. In its "Defense Industry Profit Study" dated March 17, 1971 the GAO has this to say:

"FINDINGS AND CONCLUSIONS

"Profit before Federal income taxes, on defense work, measured as a percentage of

sales, was significantly lower than on comparable commercial work for 74 large DOD contractors included in the GAO study. For example, profits on DOD contracts averaged 4.3 percent of sales over the 4 years, 1966 through 1969, but profits on comparable commercial work of the 74 contractors averaged 9.9 percent of sales for the same period. When profit was considered as a percent of the total capital investment (total liabilities and equity but exclusive of Government capital) used in generating the sales, the difference narrowed—11.2 percent for DOD sales and 14 percent for commercial sales. Further, when profit was considered as a percent of equity capital investment of stockholders, there was little difference between the rate of return for defense work and that for commercial work. The 74 large DOD contractors realized average returns before Federal income taxes of 21.1 percent on equity capital allocation to defense sales and 22.9 percent on equity capital allocated to commercial sales."

In summary, this shows: Profits on D.O.D. contracts—4.3%; on comparable commercial business—9.9%.

Profit as a percent of total capital investment: DOD sales—11.2%; Commercial sales—14%.

Profit as a percentage of equity capital investment of stockholders: DOD—21.1% before Federal taxes; Commercial—22.9% before Federal taxes.

Certainly, this does not suggest that the Government is being ripped off.

Be that as it may, since the prevailing view of the Committee is that the Renegotiation Board should be continued, the Minority has worked for what we believe would be a constructive bill. Simply defined, we believe this bill should be one which strengthens and modernizes the Renegotiation Board. We are pleased to say that H.R. 10680 contains some such provisions which we support. (Secs. 2, 3, 6, 9, 10(a), 12, 13, 14 15).

Our real concern with H.R. 10680 is that it makes major changes in renegotiation procedures and imposes such onerous requirements and penalties on defense contractors that we believe it will be counter-productive. We are convinced these provisions if enacted, will actually make it more difficult and costly for the Government to obtain the goods and service it needs.

We are also concerned that while the bill's proponents seek to limit the profits of large diversified defense contractors, the effects will fall heaviest on small businesses and with devastating results.

We would like to discuss some of these concerns in more detail. Section 4 of H.R. 10680 rewrites Sec. 105(a) of the Renegotiation Act. This section sets forth the procedures for carrying out renegotiation. The General Rule set forth in existing law makes it clear that the determination of "excessive profits" will be made through a process of negotiation and renegotiation between the contractor and the Renegotiation Board. While the Board has the right in the final analysis to make a decision with which the contractor disagrees, it is clear that Congress intended that every effort should be made to negotiate, as equals, a decision which is mutually agreeable.

The proposed bill changes this General Rule. While still granting the contractor the right to be heard, the concept of negotiating an agreement is abandoned. In fact, the Board is implicitly encouraged to make a decision and get it over with. To make things worse, Section 11 of the bill states that any such decision will be presumed to be correct and that the burden of proof will be on the contractor should he seek to appeal it in the Court of Claims.

These provisions clearly put the Board in a position to coerce any contractor it chooses. The effect on small contractors who cannot afford prolonged legal fights will be devastating.

Section 4 would also change the Method of Renegotiation. This section has caused major concerns throughout the deliberations on this bill and while the reported language represents some compromises, we are still opposed to it. Were it not a matter of such magnitude, the evolution of the reported language would be comic. This language, the product of a GAO effort to overcome certain objections to the bill's initial language, has still resulted in a twenty-three page memo of concern from the Renegotiation Board explaining a multitude of problems with it. We can only summarize some of these.

The bill prohibits use of the "percentage of completion" method of accounting while permitting the "ship and bill" method. As the Board points out, either one can result in variability in the rate of profit from year to year and that these variances can occur under a conservative but acceptable accounting policy. It is also pointed out that IRS permits the "percentage of completion" method, hence it is used by many contractors. Prohibiting its use for renegotiation will result in many contractors having to institute new accounting procedures merely for renegotiation. For many contractors, renegotiable sales constitute such a small part of their total business that it would not be worthwhile for them to institute new accounting procedures merely to retain this business. If such firms withdraw from Government contracting, the reduced level of competition will tend to increase the Government's procurement costs and to render the revised procedures counterproductive.

As a sop to those of us who objected to many of the bill's provisions on the basis that they would necessitate new accounting procedures, the Committee threw in language stating that renegotiation should be conducted "under the contractor's or subcontractor's normal accounting system." This creates a real dichotomy. Under existing law, the Board has authority (which it uses) to impose accounting changes where necessary to correct the kinds of variation in profit that would otherwise result in the kinds of abuses the bill is designed to correct. Under this language, they lose that authority but contractors are required to report according to methods which they may not have accounting systems to support.

Add to these problems the fact that the same section requires renegotiation to be conducted "by division and by major product line within a division" and you begin to appreciate our concern with the bill.

Product line reporting really poses two major problems. The first is identifying what is a product line or division.

The Financial Accounting Standards Board has published a draft for comment on "Accounting Standards Financial Reporting for Segments of a Business Enterprise." This extensive draft explores many of the problems of the subject. We would like to quote one paragraph which we think highlights the problems:

"Grouping Products and Services by Industry Lines.

"12. Several systems have been developed for classifying business activities by industry, such as the Standard Industrial Classification (SIC) and the Enterprise Standards Industrial Classification (ESIC). The SIC and ESIC classifications are described in Appendix C to this Statement. While those systems may be helpful in grouping an enterprise's products and services by industry lines, none of those systems is, by itself, necessarily suitable to determine an enterprise's industry segments for financial accounting and reporting purposes. Moreover, although certain characteristics can be identified that assist in differentiating among industries (such as those discussed in Appendix D to this Statement), no single set of characteristics is universally applicable to determine the industry segments of all business enterprises; nor is any single characteristic determinative in all cases. Consequently, determination of an enterprise's industry segments must depend to a considerable extent on the judgment of the management of the enterprise."

What this says, in essence, is that there are all sorts of classifications which could be useful for different purposes—but NO ONE CLASSIFICATION meets all needs. Furthermore, the draft goes on to point out that while various types of product line reporting are used—and are useful for management purposes—the breakdowns and classifications used are as diverse as the corporate structures involved.

The difficulty of allocating costs of some items such as overhead among various product lines means that there are practical limits to the ability to devise accounting systems which permit a satisfactory degree of comparability among firms.

Anyone who thinks you can take these internal systems and utilize them for intercorporate comparability to protect small business doesn't understand accounting.

The provisions of H.R. 10680 requiring product line accounting utilizing a company's normal accounting procedures are thus totally unrealistic.

The second problem is that renegotiating by product line is inherently unfair because it permits the Government to recapture "excessive" profits on individual product lines while ignoring losses on other lines altogether. All companies, whether producing commercial products or Government products, compute their profits and losses on an aggregate basis. This is a recognized basis by the IRS in evaluating taxable income. Many small companies have several small product lines. Many of these small companies are subcontractors to major companies. It would be terrible to penalize these small companies if they were not allowed to balance their losses in one product area against their profits in another area (i.e., if you renegotiate to collect excess profits on one or several individual products of a small company and it could not balance these profits against other product lines which are losing money, you can put them out of business).

In the final analysis, we view Section 4 as so confusing, contradictory, and unworkable that it should be stricken.

Section 5 would repeal existing mandatory exemptions for oil and gas well products and standard commercial services; modify the exemption for standard commercial articles; and require future studies of the exemptions for durable productive equipment and standard commercial articles.

Unfortunately, we heard no testimony on the effect of removing the oil and gas well products exemption so the Committee has no real facts about what this provision would do. Board members have commented privately that they don't know how they would administer renegotiation of these products because to do so would require them to establish some value for them as a raw material. World conditions being what they are, who knows the real value of such materials?

Our principal concern with the other provisions of Section 5 is that we were not presented with evidence to justify the removal or modification of the mandatory exemptions for standard commercial products and services, although there was evidence of abuse of the waiver provisions of Section 106(e)(5) of the Act which has been corrected by the bill's repeal of this section. In fact, the Department of Defense felt these exemptions for commercial products and services should be retained. It seems clear to us that where competitive prices set market

levels for goods or services, there is no need for renegotiation.

We have one further concern with this Section. After weeks of discussion with a variety of people knowledgeable about Government sales and the renegotiation process, it appears certain that many small businesses will now be subject to scrunity who have never previously been renegotiated. The impact of this possibility has not yet been fully realized since most of the firms concerned have not yet become aware of their potential involvement.

As a minimum, we believe the provisions of Section 5 need considerably more study and input from these businesses. We consider it irresponsible to enact such changes in the law without a clear justification of the need and a comprehensive understanding of the results.

Section 7 would require that contractors pay interest on excessive profits from the first day of the fiscal year following the year in which they were earned. This is just another example of the excesses of this bill.

The renegotiation process is a slow and imprecise one. A contractor never knows until the process is completed (which is usually at least three years and often five or six years), whether he is going to have an excess profit to refund. To charge interest during this period is unfair. Present law requires that interest be paid on excessive profits due to be refunded beginning thirty days after it is determined that a refund is due. *This is fair.*

Section 10(c) provides that every fiscal statement submitted to the Board either for the purpose of renegotiation or to establish an exemption from renegotiation shall be verified by an audit performed by the Board. This is duplicative, unnecessary, expensive and is destined to have explosive results. It should be recognized that the Board presently has the authority to require an audit when it deems it necessary, and exercises that authority. It does not need or want this provision.

More importantly, from the comments we have received, it is certain that the effect of this requirement will be to reduce the availability of goods and services to the Government. A number of large companies in particular have commented that their sales to the Government, while running into millions of dollars, represent less than 5% of their total business. They have stated flatly that rather than open their books to auditors—whose audits are available to anyone, including competitors seeking advantages, under the Freedom of Information Act—they will withdraw from Government sales.

We consider this requirement ill-advised.

Section 11 of the bill provides that upon appeal to the Court of Claims by the contractor, the decision by the Renegotiation Board is presumed to be correct. This means that the contractor has the burden of proof in overturning the presumption of correctness in the Board's favor. This is particularly unfair in view of the fact that the contractor, under Section 105(a) as altered by this bill, would no longer be engaged in a negotiated process, but in a process which encourages the Board to make a unilateral determination. This would reduce the participation of the contractor in the proceedings. Thus, to allege, as the proponents of this legislation have, that the contractor will have been a co-equal participant in the hearing process all along is no longer supportable. To require that the contractor then be forced to resort to an appeal procedure where the Government's case is presumed correct without a showing of the elements of its case seems patently unfair. Section 11 should be stricken to leave the burden of proof on the Government to make a showing of the proof against the contractor.

As stated earlier, we in the Minority, while dubious about the continued or expanded need for renegotiation, are convinced that if it is to be continued, the Board should be strengthened to enable it to do a first-class job, and we support those sections of H.R. 10680 designed to accomplish this. However, we are unalterably opposed to those sections noted above which we believe are poorly conceived and even counterproductive responses to alleged abuses. It seems clear to us that the enactment of such proposals will be costly and burdensome to the Government, impact harshly on small business, and finally result in a disservice to the taxpayer.

Mr. HANSEN. Mr. Speaker, in conclusion, I strongly urge that this legislation, H.R. 11016, a simple extension of the Renegotiation Act of 1951, be passed.

Mr. ROUSSELOT. Mr. Speaker, this is the first Congress in which the Committee on Banking, Currency and Housing has had jurisdiction over the Renegotiation Act. Jurisdiction had formerly been exercised by the Committee on Ways and Means.

Following hearings and two sets of markups by the Subcommittee on General Oversight and Renegotiation, conducted under the leadership of the distinguished and able chairman of the subcommittee, the gentleman from New Jersey (Mr. MINISH), the full committee reported a bill, H.R. 10680, on December 9, 1975.

That bill perpetuated the failure of the Renegotiation Act to adequately define the term "excessive profits," which is the very subject of the renegotiation process. The board would retain the authority to apply the "statutory factors" in a highly subjective manner.

However, on the issue of the "method of renegotiation," H.R. 10680 went to the other extreme. It would have required that financial data of firms be analyzed on a "product line" basis, whether or not it would be appropriate to do so with respect to a given firm or industry. Many firms would have been required to add to the sets of accounts which they presently keep for management and for tax purposes yet another set to be used for renegotiation purposes. Of course, the cost of complying with this additional reporting requirement would ultimately have been passed on to the very taxpayer for whose benefit renegotiation is conducted.

The minority views which accompany the report on H.R. 10680 discuss in greater detail the reasons why the committee bill is not ready to be considered by the full House at this time. Both the subcommittee and the full committee need to take additional time to reconsider the complex issues involved in this legislation.

The bill which is before the House today, H.R. 11016, a bill which I have cosponsored along with Chairman MINISH, of the subcommittee, Mr. HANSEN, the ranking minority member, and several other members of the committee, provides for a 6-month extension of the Renegotiation Act of 1951. Its passage will provide the time necessary for the committee to take its renegotiation legislation "back to the drawing board," and I, therefore, strongly urge my colleagues to support it.

Mr. MINISH. Mr. Speaker, I have no further requests for time.

Mr. HANSEN. I have no further requests for time, Mr. Speaker.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. MINISH) that the House suspend the rules and pass the bill H.R. 11016.

The question was taken.

Mr. MILLER of Ohio. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII, and the prior announcement of the Chair, further proceedings on this motion will be postponed.

Does the gentleman from Ohio withdraw his point of order that a quorum is not present?

Mr. MILLER of Ohio. Mr. Speaker, I withdraw my point of order.

EARNINGS ON TAX AND LOAN ACCOUNTS

Mr. PATMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3035) to require the payment of interest on certain funds of the United States held on deposit in commercial banks, to provide for reimbursement of commercial banks for services performed for the United States, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3035

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized, for cash management purposes, to invest any portion of the Treasury's operating cash for periods up to ninety days in (1) obligations of depositories maintaining Treasury tax and loan accounts secured by a pledge of collateral acceptable to the Secretary of the Treasury as security for tax and loan accounts, and (2) obligations of the United States and of agencies of the United States: *Provided,* That the authority granted under this section shall not be construed as requiring the Secretary of the Treasury to invest any or all of the cash balance held in any particular account: *Provided further,* That the authority granted under this section shall not be construed as permitting the Secretary of the Treasury to require the sale of such obligations by any particular person, dealer, or financial institution.

SEC. 2. (a) Section 5(k) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(k)) is amended by adding after "Bank" in the first sentence thereof the following: "shall be a depository of public money and" and by striking the period at the end thereof and inserting the following: ", including services in connection with the collection of taxes and other obligations owed the United States, and the Secretary of the Treasury is hereby authorized to deposit public money, in any such Federal savings and loan association or member of a Federal home loan bank, and shall prescribe such regulations as may be necessary to carry out the purposes of this subsection.".

(b)(1) Section 402(d) of the National Housing Act (12 U.S.C. 1725(d)), is amended by adding the following at the end thereof: "Insured institutions shall be depositories of public money and may be employed as fiscal agents of the United States. The Secretary

of the Treasury is authorized to deposit public money in each insured institution, and shall prescribe such regulations as may be necessary to enable such institutions to become depositories of public money and fiscal agents of the United States. Each insured institution shall perform all such reasonable duties as depository of public money and fiscal agent of the United States as may be required of it.".

(2) The second sentence of section 402(d) of the National Housing Act (12 U.S.C. 1725 (d)) is amended by inserting immediately before the period at the end thereof the following: ", including services in connection with the collection of taxes and other obligations owed the United States".

The SPEAKER pro tempore. Is a second demanded?

Mr. ROUSSELOT. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas (Mr. PATMAN) will be recognized for 20 minutes, and the gentleman from California (Mr. ROUSSELOT) will be recognized for 20 minutes.

The Chair now recognizes the gentleman from Texas (Mr. PATMAN).

Mr. PATMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this legislation will allow the Treasury Department—for the first time—to obtain compensation on tax funds left on deposit with commercial banks and other financial institutions.

It simply places the Federal Government and the depositories on a sound businesslike basis. No longer will there be an excuse for the Treasury Department to leave billions of dollars of tax funds—basically withholding receipts—on deposit interest-free. The Federal Government—the taxpayers—will at long last start getting a return on the funds.

At times, these deposits—known as tax and loan accounts—have exceeded $10 billion and the running average in recent years has been about $5 billion. As a result of congressional efforts to develop a more equitable system for these accounts, the Treasury has been drawing the funds down more rapidly, reducing the balances substantially in the past year. It is my understanding that the balances are averaging about $1.4 billion a month now and at times this year they have been as low as one-half billion dollars. We support this improved cash management and hope that it continues.

As my colleagues know, many of us have long urged interest payments on these funds and in past years we have faced bitter and emotional opposition from the Treasury Department. Happily, the Treasury now agrees with us and they are in full support of the authority to allow them to invest these funds in obligations of the depositories. The Treasury Department has given us every indication it wants this program to work and we have left them with flexibility to negotiate the terms and conditions on these accounts—consistent with good cash management and the maximum return on the taxpayers' money.

Mr. Speaker, this legislation has broad bipartisan support. The Domestic Monetary Policy Subcommittee reported the bill unanimously and the vote in the full committee was 26 to 0 in favor. Members of both parties are to be commended for their fine support which has resulted in the successful reporting of this bill to the full House.

Many Members of the House have worked long and hard on the issue through the years. That certainly includes the members of the Banking Committee and its chairman, HENRY REUSS, who has long recognized the need for reform of the tax and loan account program.

Our colleagues from Ohio—JOHN SEIBERLING and RON MOTTL—are not on the committee, but they have done a tremendous job on this legislation and have been invaluable in drumming up support in the House.

A second section of H.R. 3035, as amended, adds savings and loan associations as eligible depositories. Under this language, they will be eligible to receive these funds if they meet the criteria and regulations established for the tax and loan program by the Treasury Department. The same eligibility already exists for credit unions, mutual savings banks, and the commercial banks. It is simply a matter of equity that the savings and loans be included along with the rest of the financial community.

Let me emphasize, however, that this does not require any savings and loan to become a depository, nor does it require the Treasury Department to channel these tax and loan accounts into these institutions. It simply removes any legal roadblock to their eligibility as depositories for such funds.

Mr. Speaker, I sincerely hope that the House will approve this legislation on suspension today, because it is important that the Treasury Department get this program underway as soon as possible. Even at the current low level of these balances, we are probably losing between $10 and $20 million each month we delay. The Treasury ought to be receiving that interest right now and I hope the House will speed this through this afternoon.

Mr. MOTTL. Mr. Speaker, will the gentleman yield?

Mr. PATMAN. I yield to the gentleman from Ohio.

Mr. MOTTL. Mr. Speaker, I thank the distinguished gentleman from Texas for yielding.

I certainly compliment the gentleman and his subcommittee and the entire committee for the outstanding work they have done in this area. It certainly was a privilege to work with the gentleman from Texas on this issue.

Mr. Speaker, the public interest demands interest.

With that thought in mind, I would like to urge my colleagues in the House to vote in favor of H.R. 3035 today. This bill would permit the Federal Government to start charging banks interest on the use of billions of taxpayers' dollars now in the tax and loan account, which consist of withholding taxes and FICA.

Banks have been given carte blanche use of this money without paying any interest for the past 58 years. Conservative estimates are that taxpayers would "earn" about $200 million a year if banks were required to pay interest on this money.

I have been working on this legislation with colleagues JOHN SEIBERLING and WRIGHT PATMAN since I came to Congress 11 months ago.

Taxpayers have been deprived of billions of dollars in interest for too long. This practice of giving banks a free ride will end if we approve this bill.

Please vote to reduce our massive Federal deficit and support H.R. 3035.

Mr. PATMAN. I thank the gentleman from Ohio. We appreciate his kind support.

Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin (Mr. REUSS), chairman of the Committee on Banking, Currency and Housing.

Mr. REUSS. Mr. Speaker, I thank the distinguished chairman of the subcommittee, the manager of the bill, Mr. PATMAN, for yielding.

I want to express my admiration for the way in which the gentleman has handled this complicated and difficult matter. I compliment the subcommittee and the full committee for their unanimous approval of this important legislation, and the two gentlemen from Ohio, Mr. SEIBERLING and Mr. MOTTL, for the outstanding work they have done on this. Altogether they are doing a good day's work for the taxpayers of the United States, and I am proud of the work the subcommittee has done.

Mr. PATMAN. I thank the gentleman from Wisconsin.

Mr. HANNAFORD. Mr. Speaker, will the gentleman yield?

Mr. PATMAN. I yield to the gentleman from California.

Mr. HANNAFORD. Mr. Speaker, I rise in support of H.R. 3035 and I commend Chairman PATMAN for his leadership and I applaud the unanimous support of our subcommittee and full committee in bringing this legislation before us. Also to be commended are our two colleagues from Ohio, Mr. SEIBERLING and Mr. MOTTL, who are not members of the committee, but who testified and supplied initiative for the legislation. I also commend the Treasury officials for their cooperation and support in shaping the bill in its final form.

In fact, with such universal support and cooperation, it is difficult to understand why we did not pass this legislation long ago.

Every bank performs some services for the Federal Government, one of which is collecting and holding tax funds. Other services are also performed, such as the issuance of food stamps and handling series E bonds. The financial benefit to the bank of holding the funds has been considered a tradeoff for the services rendered by the banks. But it has not been an even tradeoff in any way because the amounts held by the banking system collectively have been so large in some years as to amount to an interest loss to the taxpayers through these tax accounts as high as $300 million annually. Furthermore, some banks held large accounts and performed little in the way of services, while other banks had high service requirements and small Federal

accounts, but always the collective effect has been a loss of many millions of dollars to the taxpayer.

All this bill does is to allow day-to-day investment of these public funds, after which the aforementioned services will be paid for, based on services rendered. The Treasury estimates that this year the saving to the taxpayer will be about $86 million.

Mr. Speaker, the legislation is overdue. I urge its passage.

Mr. ROUSSELOT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3035, as printed, will not be considered today. We will consider, instead, a committee substitute which consists of two sections.

The first section would authorize the Treasury to invest surplus cash for periods of up to 90 days in obligations of institutions holding tax and loan accounts and in obligations of the United States and United States agencies. This is clearly a section which is worthy of our support.

The effect of the second section is much less clear. It authorizes savings and loan associations to bid for public funds, which may be deposited by Government agencies which may have such funds to invest. Such deposits could be made in insured savings and loan associations, subject to regulations of the Federal Home Loan Bank and other appropriate agencies.

However, there are two points which need to be made with respect to this legislation:

First. It does not, by itself, provide authority for savings and loan associations to accept deposits of individuals in payment of their Federal tax obligations. In the absence of further legislation originating in the Committee on Ways and Means, such individual deposits would not have the effect of extinguishing the taxpayer's debt, and savings and loans associations would not be empowered to accept such deposits from individuals.

Second, there also remains the question whether the funds will be made available for investment in savings and loan associations as a result of this legislation will in fact be suitable and desirable for acceptance by institutions whose assets consist primarily of long-term home mortgages. It would have been helpful to all concerned if the committee had held hearings on this question. However, the decision to seek such deposits will ultimately rest with the management of the associations themselves. and the ordinary regulatory and supervisory measures should provide sufficient protection against any major problems which may arise as a result of these new powers.

Having stated these caveats and reservations, it is my intention to support this bill.

Mr. MYERS of Indiana. Mr. Speaker, will the gentleman yield for a question?

Mr. ROUSSELOT. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. Mr. Speaker, I have a question; in fact, two.

First of all, H.R. 3035, the only printed copy of a bill as we have before us, I understand the gentleman says, is not the bill we have under consideration.

Mr. ROUSSELOT. No; it is a substitute with the same number.

Mr. MYERS of Indiana. Under section 1 then, the Treasury would apply an interest to a commercial bank which was holding a U.S. Treasury tax and loan account. For example, a bank customer would come in and make a deposit for taxes withheld from their employees in a tax and loan account. Subsequently, the Treasury will draw upon that in 15 or 20 days, draw the account entirely out. Is the intent that a commercial bank would have to pay interest on that very short-term deposit; is that correct?

Mr. ROUSSELOT. If the gentleman is talking about 1 or 2 days, that is not the intent. It says up to 90 days. But the bank could charter an agreed upon service fee.

Mr. MYERS of Indiana. Up to 90 days.

Mr. ROUSSELOT. Yes, up to 90 days. But it is still subject to rule and regulation and negotiation with the Treasury.

Mr. MYERS of Indiana. Is it the intention that a deposit left less than 30 days, the bank would have to pay interest on it?

Mr. ROUSSELOT. Yes.

Mr. MYERS of Indiana. I am afraid, if the gentleman will continue to yield, the gentleman will find a lot of banks that will discontinue having that service of serving as a depositor for tax and loan accounts for their customers. Because really if it is 1 percent below the Federal fund rates, the Federal fund rate runs up to 12 or 13 percent, and if a bank has to pay 1 percent less than that, the commercial bank will lose money under that requirement.

Mr. ROUSSELOT. My understanding is that in that type of fast turnover account, the bank could be paid, in fact, a service charge.

Mr. MYERS of Indiana. That is my next question. Is it possible that a commercial bank that is in this situation where they are not a continuing depository, but they are using that Treasury tax and loan account as a service for their customers, where it is drawn out in 15 or less than 30 days, if they do have to pay interest, could they also in that same account come back and charge the Treasury? If they had to pay interest and lost money on the account because they were required to pay interest to the Treasury, the Treasury might have to pay a service charge to the bank for that service; is that correct?

Mr. ROUSSELOT. As I have just stated, the Treasury informed us that banks could be paid a service fee for services performed in connection with tax and loan accounts.

Mr. MYERS of Indiana. On the same account, the commercial bank might have to pay the Treasury interest to have that account for a short time, and later on in the month come back and charge the U.S. Treasury for the service.

Mr. ROUSSELOT. The interest under this bill is paid by the depository to the Treasury.

Mr. MYERS of Indiana. And the Treasury then would have to return back to the bank a service fee. It seems to me we are getting into an awful lot of book work here that will not really accomplish anything. Extra accounting both for the banks as well as the Treasury.

Mr. ROUSSELOT. I am sure it is extra book work. But all that needs to be is for the bank or depository to make the necessary debit or credit as required in accordance with negotiated agreement with the Treasury.

Mr. MYERS of Indiana. Instead of being up to 90 days, it seems that interest payments by banks ought to be starting after 30 days.

It would be a lot more reasonable to pay after 30 days instead of up to 90 days. To require interest payments for deposits left between 30 days and 90 days.

Mr. ROUSSELOT. The Treasury already has authority to pay interest after the 90 days. This is to correct it so that interest can be paid or charged under 90 days.

Mr. PATMAN. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to my colleague from Texas.

Mr. PATMAN. Mr. Speaker, I thank the gentleman for yielding to me. Remember that the regulation of the Treasury will govern, and under the present law, or the law when this is passed, the Federal funds will still pay overnight interest, and that is about as low as one can get so far as getting interest on accounts, so this does not make any real change.

Mr. ROUSSELOT. Well, except that it allows interest on accounts under 90 days.

Mr. MYERS of Indiana. Mr. Speaker, if the gentleman will yield further, the thing that concerns me about this legislation is that the 1 percent less than the Federal funds rate, the Federal funds rate does run rather high sometimes because funds are used by banks for a specific purpose of maintaining a minimum balance. But, there are many small commercial banks who really do not have the expertise and the capacity to invest this U.S. Treasury tax and loan account for something less than 30 days, and sometimes not even for 30 days to 90 days.

What concerns me is that we are putting a real burden here on some very small commercial banks who really are handling these accounts as a service to their customers and to the Treasury, but now we are going to require the Treasury to charge the commercial bank for keeping these funds for a few days when the banks may have no way of recovering the costs. I believe many commercial banks are going to discontinue the service and will not perform the work the gentleman wants them to do.

Mr. ROUSSELOT. Let me explain. Perhaps the gentleman is confusing this amended bill with the language of the original bill. In the substitute we do not mandate, and it is subject to negotiation as to what is to be paid by the Treasury.

Mr. MYERS of Indiana. If the gentleman will yield further, I have seen some

recent GAO audits, things just like this. A Member of Congress will be questioning about the Treasury not applying the interest to some commercial banks, and the GAO, through its forces, is going to require the legislation he complied with.

Mr. ROUSSELOT. Mr. Speaker, I yield 3 minutes to my colleague from Ohio (Mr. GRADISON).

Mr. GRADISON. Mr. Speaker, I rise in support of H.R. 3035. I want to compliment the chairman of our subcommittee, the distinguished gentleman from Texas (Mr. PATMAN), for his efforts on this matter.

Mr. Speaker, this has been a problem that has been around for decades, and the problem has really become severe in recent years because of the rise in general interest rates. There was a time when the argument could be made that the interest which banks were able to earn on these deposits was necessary to compensate them for services rendered to the Treasury. However true that may or may not have been at one time, it is no longer true today because of the generally prevailing level of interest rates and increased flexibility available to banks in putting funds to work on an overnight basis.

Mr. Speaker, I particularly want to point out that I think that this bill is an example of what can happen with a high level of cooperation, of working in the same direction. In this instance, the original bill was superseded by the amendment offered by the gentleman from California (Mr. HANNAFORD). It was based in no small part on the very useful suggestions received from the Treasury. I think we have a workable device and one which, while it deals with this specific issue, does not in itself resolve the problem which we will probably have to face later on, on the general issue of whether interest should be paid on demand accounts.

In response to the inquiries directed to the gentleman from California (Mr. ROUSSELOT) by the gentleman from Indiana (Mr. MYERS), I would just point out that what this really does is to provide to the Treasury the same opportunities for the management of the short-term deposits which generally are available today to any depositor, but primarily to large individual depositors and to large corporations.

The way in which it will be used is, of course, very much in question. How will the rates be determined? How will they balance the costs incurred by the bank in providing services for the Treasury, against the interest to be paid?

Mr. Speaker, on that matter, I would suggest that the Committee on Banking, Currency and Housing will have a continuing responsibility for oversight to determine whether this will be done in a way that is fair and equitable not only from the point of view of the taxpayers, which must be uppermost in our minds, but also the banking institutions which do have costs to cover for services provided for the Treasury.

Mr. MYERS of Indiana. Mr. Speaker, will the gentleman yield?

Mr. GRADISON. I will yield to the gentleman from Indiana.

Mr. MYERS of Indiana. I thank the gentleman for yielding.

Mr. Speaker, I do support the thrust of the bill. I think it is a good intent to start collecting some interest on the large sums which can be invested for a period of 30 days or more.

What concerns me is these small accounts, $2,000 or $3,000 which are deposited, and the next day they come in with $300 or $400. The small banks—and I am thinking mostly of the small banks in this instance cannot pay interest on the accounts on a 1-percent spread between what they pay and the Federal funds. The small bank cannot afford to handle the tax accounts for 1 percent. That is all I am concerned about, how it is going to be applied and administered by the Treasury.

Mr. GRADISON. Mr. Speaker, the gentleman from Indiana (Mr. MYERS) raises a proper concern in the way this bill will operate because if the Treasury cannot come in with a satisfactory agreement for the payment of interest by an individual bank, that bank could not continue to handle that account.

The SPEAKER pro tempore. The time of the gentleman from Ohio (Mr. GRADISON) has expired.

Mr. ROUSSELOT. Mr. Speaker, I yield the gentleman from Ohio (Mr. GRADISON) 1 additional minute.

Mr. GRADISON. Mr. Speaker, I feel we have the continuing responsibility to monitor the way in which this operates, to make sure the taxpayers are not inconvenienced, especially in smaller communities which may only have one or two institutions upon which the people currently rely to provide these services.

Mr. MYERS of Indiana. Mr. Speaker, will the gentleman yield?

Mr. GRADISON. I will yield to the gentleman from Indiana (Mr. MYERS).

Mr. MYERS of Indiana. I thank the gentleman for yielding again.

Mr. Speaker, I think we both agree that if there are large sums of money that are not going to be used for 30 or 60 days, they should be invested. There are plenty of banks that will be willing and able to pay if they know it is an investment and for a definite time. But if we come down to small balances, where an account at the end of the month is zero, small banks are not going to be depositories to service their customers and the Treasury. It is not going to work out.

Mr. GRADISON. Mr. Speaker, I thank the gentleman for his comments, because I think it is important that the record does indicate that this is a matter which we are going to have to look into in the future.

Mr. PATMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I hope we will have no confusion about this. This has come up a number of times. This legislation has been under concern for about 10 years. People wonder why a simple matter like this cannot be quickly adjusted. It is very plain. It is very simple. I do not think there is any question that this represents justice. It is perfectly justifiable and represents justice in every sense of the word. We cannot expect to have exact justice.

If we have equal justice, that is about all we can expect, and this certainly gives equal justice, if not exact justice.

Mr. Speaker, there is really no problem about small banks; there has not been over the years. The Treasury Department will use this new authority in a prudent manner. When the accounts are small, I do not anticipate that the Treasury Department will be using this authority.

In other words, we are hopeful that this will provide substantial returns for the Treasury Department, and obviously this means the Treasury Department must place its emphasis on these institutions which have the bulk of the accounts, the really large tax and loan accounts. This will be the emphasis of the program, and, therefore, I do not think that there will be any real change for the small, independent banks.

So I repeat, let us be very careful here. Let us cause as little confusion about this as possible. Otherwise it will probably result in delay. It has been delayed now for 10 years, and its costs the people, the taxpayers, about $10 million or $20 million a month for these delays.

Mr. Speaker, this has been carefully worked out. Every question that has been raised has been satisfactorily answered in the hearings and this debate, so I urge the Members to vote for the bill.

Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. HANNAFORD).

Mr. HANNAFORD. Mr. Speaker, I thank the gentleman for yielding time to me.

I wil point out for the benefit of the gentleman from Indiana (Mr. MYERS) that we on the subcommittee did hold a number of days of hearings on this legislation. The small bankers, the minority bankers, did appear. They were concerned, and they had the same concerns the gentleman has.

They were assured that the Treasury does utilize and will utilize the flexibility necessary to satisfy their concerns. I think the legislation is addressing itself to the very kind of thing the gentleman mentioned, wherein it applies to very large accounts with substantial revenue benefits to those large banks and relatively low service responsibilities or charges in those large accounts.

So, Mr. Speaker, I really think this is satisfactorily addressing the problem, and I assure the Members that the small bankers were satisfied with the final product.

Mr. ROUSSELOT. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I wish to answer my colleague, the gentleman from Indiana (Mr. MYERS), because he was concerned about the statement in previous bills that does not appear in this substitute about the interest to be computed at a rate of not less than 1 percent below Federal funds raised. That language is not in the substitute, and interest rate is totally negotiable. So I think the gentleman's concern is partially answered

by the elimination of the previous wording.

That does not mean the Treasury in its negotiations will satisfy all banks in the matter of the type of small accounts to which the gentleman addresses himself. However, I think it is not mandated in this substitute on the basis which brought up the concerns the gentleman has.

So I want to emphasize again that as to the original bill, H.R. 3035, that has changed by substitute language.

Mr. Speaker, I have no further requests for time.

Mr. GRASSLEY. Mr. Speaker, I rise in support of H.R. 3035 as a bill representing good financial management—an example that the Congress does not follow too often, especially when it budgets more than its income.

This bill calls for the Government to receive interest on idle Federal funds in financial institutions throughout the country. My own State receives $40 to $50 million a year from the investment of idle funds. If the State of Iowa can do this well, surely the Federal Government can do this well many times over. Not too many years ago my State was leaving this money in financial institutions untouched.

Also, the broad support this bill received among the various political philosophies within the Congress as well as the agreement from various interest groups outside the Congress speaks to the fairness of this bill. It deserves the support of every Member of the Congress.

Mr. SEIBERLING. Mr. Speaker, the Banking and Currency Committee is to be commended for bringing this legislation before the House. If enacted, it could save the U.S. Treasury hundreds of millions of dollars each year. I think I can speak on behalf of the 113 cosponsors who joined me in introducing the Tax and Loan Account Interest Act—H.R. 1016—in expressing our appreciation for the committee's attention to this issue and particularly for the efforts of the chairman of the Subcommittee on Domestic Monetary Policy (Mr. PATMAN) over the years in seeking Treasury cooperation to obtain a fair return on the taxpayers' money.

Not many people, I imagine, know what happens to the social security and income taxes that are withheld from their paychecks. It would come as a shock to many to know that this money does not go directly to the U.S. Treasury, but to "tax and loan accounts" in commercial banks where it sits without earning 1 cent of interest for the taxpayers. Even more shocking is the fact that the Government allows the banks to invest the taxpayers' money and reap high rates of interest on it, not for the taxpayers, but for the banks.

The primary purpose of the tax and loan account system is to provide an efficient tax collection mechanism for the Treasury and to minimize the potentially disruptive effect of Treasury cash operations on the banking system and the Nation's economy. It has performed this useful function ever since it was set up in 1917. Ostensibly, the Government has allowed banks to hold the accounts without paying interest to compensate them for various banking services they perform for the Government, including holding the accounts. But with rising interest rates in recent years, it has become obvious that most banks are being greatly overcompensated.

Last year, the Treasury Department released the results of a 2-year study of the tax and loan account system which indicated that the total value of the tax and loan accounts to commercial banks in calendar year 1972 exceeded the value of the services they performed for the Government by over $260 million. Last year, when interest rates rose to record highs, the losses to the Treasury were in the $350 to $400 million range.

Since last year, the Treasury has drawn down the balance in the tax and loan accounts substantially and placed it in the Federal Reserve banks so that the losses to the Government are minimal. However, the current system is unacceptable to the Federal Reserve Board on a permanent basis because it tends to complicate the Federal Reserve's monetary policy.

H.R. 3035, as amended by the committee, would give the Treasury authority to invest unneeded tax and loan balances on a day-to-day basis in obligations of depositaries maintaining tax and loan accounts. The Treasury would be in effect lending any unneeded balance in the tax and loan accounts to the banks and collecting interest on it. This would put the Federal Government on a par with other major bank depositors such as corporations, States, and cities which have arrangements with banks for the day-to-day investment of their operating cash balances in excess of daily needs.

It is incredible that the Federal Government has allowed the tax and loan account system to operate at such a substantial loss to the Treasury for so many years. No well-managed business would tolerate such an unbusiness-like practice. Certainly at a time when the Congress is faced with a $74 billion budget deficit, we can no longer afford delay in enacting such a money-saving measure. I urge that H.R. 3035 be approved by the House.

Mr. PATMAN. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore (Mr. MCFALL). The question is on the motion offered by the gentleman from Texas (Mr. PATMAN) that the House suspend the rules and pass the bill H.R. 3035, as amended.

The question was taken.

Mr. MILLER of Ohio. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3, rule XXVII, and the prior announcement of the Chair, further proceedings on this motion will be postponed.

Does the gentleman from Ohio (Mr. MILLER) withdraw his point of no quorum?

Mr. MILLER of Ohio. I do, Mr. Speaker.

GENERAL LEAVE

Mr. PATMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill H.R. 3035, as amended.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

GENERAL LEAVE

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on H.R. 11016, Extension of Renegotiation Act of 1951, the bill previously considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

SPORTS BROADCASTING ACT OF 1975

Mr. MACDONALD of Massachusetts. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 11070) to amend the Communications Act of 1934 with regard to the broadcasting of certain professional sports clubs' games, as amended.

The Clerk read as follows:

H.R. 11070

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

SECTION 1. This Act may be cited as the "Sports Broadcasting Act of 1975".

SEC. 2. Section 331 of the Communications Act of 1934 is amended to read as follows:

"BROADCAST OF GAMES OF PROFESSIONAL SPORTS CLUBS

"SEC. 331. (a) If any game of a professional sports club, other than a postseason game of a professional baseball, basketball, or hockey club, is to be broadcast by means of television pursuant to a league television contract and all tickets of admission for seats at such game which were available for purchase by the general public one hundred and twenty hours or more before the scheduled beginning time of such game have been purchased seventy-two hours or more before such time, no agreement which would prevent the broadcasting by means of television of such game at the same time and in the area in which such game is being played shall be valid or have any force or effect. If any postseason game of a professional baseball, basketball, or hockey club is to be broadcast by means of television pursuant to a league television contract and all tickets of admission for seats at such game which are available for purchse by the general public have been purchase by the general public have been purchased twenty-four hours or more before the scheduled beginning time of such game, no agreement which would prevent the broadcasting by means of television of such game at the same time and in the area in which such game is being played shall be valid or have any force or effect. The right to broadcast any such game by means of television at such time and in such area shall be made available, by the persons having such right, to a television broadcast licensee on reasonable terms and conditions unless the broadcasting by means of television of such game at such time and in such area

would be a telecasting which section 3 of the Act entitled "An Act to amend the antitrust laws to authorize leagues of professional football, baseball, basketball, and hockey teams to enter into certain television contracts, and for other purposes", approved September 30, 1961 (15 U.S.C. 1293), is intended to prevent.

"(b) Notwithstanding the provisions of subsection (a) of this section, a television broadcast licensee may not enter into any agreement that prevents the broadcasting by means of television of any professional football game that occurs at any site located within a home area which area is more than seventy-five miles from the location of the television broadcast station of such licensee.

"(c) If any person violates subsection (a) or (b) of this section any interested person may commence a civil action for injunctive relief restraining such violation in any United States district court for a district in which the defendant resides or has an agent. In any such action, the court may award the cost of the suit including reasonable attorney's fees.

"(d) For the purposes of this section:

"(1) The term 'professional sports club' includes any professional football, baseball, basketball, or hockey club.

"(2) The term 'league television contract' means any joint agreement by or among professional sports clubs by which any league of such clubs sells or otherwise transfers all or any part of the rights of such league's member clubs in the sponsored telecasting of the games engaged in or conducted by such clubs.

"(3) The term 'agreement' includes any contract, arrangement, or other understanding.

"(4) The term 'available for purchase by the general public', when used with respect to tickets of admission for seats at a game or games to be played by a professional sports club, means only those tickets on sale at the stadium where such game or games are to be played, or if such tickets are not sold at such stadium, only those tickets on sale at the box office closest to such stadium.

"(5) The term 'postseason game' means any game which is played following the regular season of a professional sports club and which determines or leads to the determination of the championship of such professional sport.

"(6) The term 'home area' means the limits of the city within which is located the site at which a professional football game occurs, and in the case of such a site which is not located within a city, such term shall mean the limits of the county within which it is located.

"(e) The Commission shall conduct a continuing study of the effect of this section for three years from the date of enactment of this section, and shall, not later than April 15 of each year, submit a report to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Commerce of the Senate. Such report shall include pertinent statistics and data relating to the effects of this section on professional football, baseball, basketball, and hockey.".

The SPEAKER pro tempore (Mr. McFALL). Is a second demanded?

Mr. FREY. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Massachusetts (Mr. MACDONALD) will be recognized for 20 minutes, and the gentleman from Florida (Mr. FREY) will be recognized for 20 minutes.

The Chair now recognizes the gentleman from Massachusetts (Mr. MACDONALD).

Mr. MACDONALD of Massachusetts. Mr. Speaker, I yield myself 7 minutes.

Mr. Speaker, my remarks in support of H.R. 11070 will be brief, although I will revise and extend my remarks for the RECORD.

Essentially, H.R. 11070, the Sports Broadcasting Act of 1975, makes permanent the so-called sports antiblackout law which Congress enacted in 1973. This law is set to expire on December 31, 1975—in just about 2 weeks.

When Congress first passed the antiblackout law, it did so in order to make available to local fans certain games of professional football, baseball, basketball, and hockey which were being televised pursuant to network contracts. But Congress took this important step with full awareness of the importance to professional sports of the "live gate." Thus, we built a "fail-safe" mechanism into the bill. If the game is not a complete sellout 72 hours in advance, the blackout imposed by the league remains in effect. Only when all tickets have been sold does the law require it to be made available for local television.

This key feature of Public Law 93–107 is carried over in H.R. 11070. However, we have made one change which relates to postseason playoffs in professional baseball, basketball, and hockey. Because it is often not known 72 hours in advance if a game in these playoff series will even take place, H.R. 11070 reduces the sellout deadline to 24 hours. Hopefully, this change will make more of those playoff games available on television to fans who are unable to obtain tickets.

I would like to emphasize one basic point about both this legislation and the existing law. They cover only those games televised pursuant to a contract between the league and the networks—not games televised under terms of local contracts such as are utilized predominantly by baseball, basketball, and hockey. This was not done, as some have suggested, to single out professional football, but because in 1961, all four major professional sports received from the Congress an antitrust exemption which extended protection from the antitrust laws to league network contracts. All of these sports have profited handsomely as a result of their league television contracts and so has the public because of the greater number of games made available.

Congress has asked that professional sports give something to the public in return for this valuable exemption, but has done so in a way which has not caused financial harm to the sports themselves. The lack of adverse economic impact is documented by the two annual reports submitted to date to the Congress by the Federal Communications Commission. The absence of harm to the sports involved justifies making the antiblackout law permanent. However, H.R. 11070 provides for three more reports from the FCC so that the Congress can be especially certain that no unforeseen problems arise.

H.R. 11070 also limits the area which can be blacked out by a professional football club when its games are not sold out. The limit is 75 miles from the city or county in which the stadium is located—the same definition which the National Football League has adopted for itself in its constitution and bylaws but which is not being adhered to by several teams. As a result, cities up to 150 or 200 miles away from the site of the game are being blacked out in some parts of the country.

H.R. 11070 is sound legislation which deserves the support of every Member of the House. It is in the public interest, while at the same time, it protects the interests of professional sports. I urge its immediate adoption.

I would like to point out that the Subcommittee on Communications considered this legislation very carefully.

We held hearings on H.R. 9566 on September 22 and October 29, 30, and 31, 1975. Testimony was received from Richard E. Wiley, Chairman of the Federal Communications Commission, and the Honorable L. A. BAFALIS. In addition, representatives of the National Basketball Association, the National Football League, the National Hockey League, Organized Baseball, the Columbia Broadcasting System, the National Broadcasting Co., Station WQXI, Atlanta, Ga., a concession company, an advertising agency, and other interested parties appeared and testified. A statement for the record was submitted by the American Broadcasting Co.

I feel that the testimony of one witness requires some comment. The Commissioner of the National Football League, Pete Rozelle, stated to the subcommittee that he could show that the NFL had lost $9 million as a result of the antiblackout law. He sent out press releases accordingly, but during the hearings, he was evasive as to where these losses had been incurred. He spoke of a decline in season ticket sales, yet refused to speculate how much of that decline would be made up for by game-by-game sales.

It was interesting that after testifying before our subcommittee, Mr. Rozelle changed his approach when he appeared before the Senate Committee. Under questioning, he admitted that:

I cannot say at this point that we have had serious financial losses.

He cannot say it, because, of course, no losses have taken place. The two FCC reports establish this as far as the NFL is concerned, and I hope that we can avoid such meaningless debates in the future by passing a permanent bill.

On December 9, 1975, the subcommittee considered H.R. 9566 and adopted an amendment offered by Mr. FREY of Florida. A clean bill incorporating this amendment was prepared and I introduced it for myself and other members of the subcommittee (Messrs. MURPHY, CARNEY, BYRON, FREY, and MADIGAN). The bill (H.R. 11070) was unanimously reported to the full committee.

On December 11, 1975, the full committee considered H.R. 11070, with the amendment reported by the subcommittee, and by a voice vote unanimously ordered the bill reported to the House.

The subcommittee carefully considered the two annual reports submitted to it under Public Law 93–107 by the Fed-

eral Communications Commission. In addition, we reviewed partial data filed with the FCC for the current NFL season. These findings support the enactment of permanent legislation as embodied in H.R. 11070 and can be summarized as follows:

One. Public Law 93–107 has resulted in the televising of 255 regular season NFL football games which would have otherwise been blacked out. In addition, 9 NFL postseason playoff games and 2 Super Bowl games have been televised as a result of this law. These figures include the 1973–74 and 1974–75 seasons and the first 11 weeks of the 1975–76 season. A relatively small number of NBA and NHL games have been affected, while there has been no effect on Baseball.

Two. Although the number of no-shows—those who purchase a ticket but choose not to attend—for NFL games has increased since Public Law 93–107 was enacted, no-shows have not been significantly higher for home games televised under Public Law 93–107 than for home games for which the blackout was imposed. Up to and including the eighth week of the 1975 season there were 41 games telecast locally as against 48 games locally telecast after the eighth week of the 1974 season. Of the games televised locally there were 60,955 fewer no-shows in the 1975 season than in the 1974 season. Of the games that were blacked out there were 42,972 fewer, no-shows. Paid attendance was also up—60,488 more tickets had been sold after the eighth week of the 1975 season than had been sold after the eighth week of the previous season.

Three. In addition, statistical tests conducted by the FCC demonstrate that precipitation and team standings are more important influences on the number of no-shows than Public Law 93–107.

Four. Impact of the antiblackout law on concession sales and on radio broadcast revenue has been slight overall, and the small decline in the latter has been partially offset by rebate payments from some NFL clubs.

In addition to the findings of the FCC, representatives of the television networks provided data which demonstrate the local home games of NFL teams, on an overall basis, receive higher ratings than games involving other teams, and as a result, they felt that the value of the league network contract might be enhanced when the time comes for new negotiations.

I am not suggesting that H.R. 11070 be enacted on the basis of possible financial advantage to professional sports, but I do feel that we can enact it with no fear of financial harm to professional sports.

I feel that permanent legislation is justified and that it puts the burden squarely on professional sports to demonstrate financial harm in the future. If they meet this burden, H.R. 11070 can be modified through amendments.

I recognize, as we did in our report 2 years ago, that some additional no-shows may result from televised home games and that these no-shows may cause some slight diminution of revenues from such sources as parking fees, program sales and concession sales; however, I feel there is no hard evidence that tickets sales and television rights will be adversely affected by the legislation.

Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. CARNEY) a very valued member of our subcommittee.

Mr. CARNEY. Mr. Speaker, I want to associate my remarks with those of the chairman of the subcommittee, the gentleman from Massachusetts (Mr. MACDONALD). I want to say that this bill is very close to me. Currently there are no laws defining the home territory of a professional sports team. However the NFL has arbitrarily set a 75-mile limit. However this has not always been adhered to.

Thanks to the ranking minority member, the gentleman from Florida (Mr. FREY) there is an amendment in this bill which will take care of that matter and define the home territory of a national professional football team as a 75-mile area. However, the city of Youngstown, Ohio, which I represent, has no professional sport teams. It does lie within 65 miles of Cleveland and 60 miles of Pittsburgh, so we are blacked out both ways. To correct this situation, with the help of the gentleman from Florida (Mr. FREY), and the chairman of the subcommittee, the gentleman from Massachusetts (Mr. MACDONALD), I had conferences with the representatives of the National Football League and their attorney. I had conferences with our affiliate of NBC, in Youngstown, WFMJ-TV, which carries these games or are entitled to, and through the good offices of all of these people, we reached a verbal agreement that Youngstown, Ohio, will get one of these games regardless of the 75-mile limitation.

In this report, Mr. Speaker, I am very thankful that they have a section called, "The Youngstown Problem." I want to publicly thank the chairman and the ranking minority member of the committee, and all of the other members of the committee, as well as the National Football League, for their cooperation in this matter.

Mr. MACDONALD of Massachusetts. Mr. Speaker, I want to congratulate the gentleman from Ohio for showing such grave concern for his constituents and really pointing out a minor error. It is no longer an amendment; it is in the bill. We welcome it in the bill.

Mr. FREY. Mr. Speaker, will the gentleman yield?

Mr. MACDONALD of Massachusetts. I yield to the gentleman from Florida.

Mr. FREY. I thank the gentleman for yielding.

I just also want to add my congratulations. The gentleman showed a great deal of drive and preserverance and managed to handle the problem in a way so that the legislation was not cluttered. We know that the people in his hometown will be delighted with the way it has worked out.

Mr. Speaker, the bill we have before us today is in essence a recognition of the success of the 3-year experiment—established by Public Law 93–107—of a sports antiblackout law. H.R. 11070 would continue the balanced, equitable situation whereby both the public and the professional sports leagues benefit from Federal legislation; that is, the public benefits through the antiblackout law, and the sports leagues benefit through the antitrust exemption that permits league pooling of game telecast rights, resulting in a large financial gain to the leagues. Obviously, before we continue this antiblackout law, we should look to see whether there have been harmful effects as a result of its existence these past 3 years.

During the hearings held on this legislation by the Communications Subcommittee of our committee, we heard from the various television networks, sports leagues, the FCC, and other interested groups. While organized baseball did not oppose this bill, the NHL, NBA, and NFL did oppose various portions of it, with the major opposition, of course, coming from the NFL. However, they were unable to demonstrate any substantial harm resulting from the the existence of an antiblackout law.

Two matters were primarily addressed by the NFL; the contentions that the number of no-shows was increasing and that there has been a downturn in season ticket sales. The argument that football will become a studio sport as a result of this law is just not supported by the facts. During last year's season, the average number of no-shows—holders of tickets who fail to attend—at televised games exceeded the number at blacked-out games by only 448 people. Clearly, there are other facts to take into account, such as weather and team standing. In fact, the FCC statistical analysis showed that precipitation explained 46 percent of the variation in no-shows, while the lifting of a blackout indicated only a 2.2-percent increase in no-shows.

With regard to the contention that the law has resulted in fewer season ticket sales, let me emphasize that nothing was said by the NFL about the number of tickets sold on a game-by-game basis. It would be naive to assume that only season ticket holders attend professional football games. It would also be naive on our part to assume that the only factor that affects season ticket sales is the antiblackout law. If an apathy does develop, there are many reasons for its occurrence, such as player strikes, ticket prices, and as much news in the sports section of our newspapers about players' salary negotiations and labor disputes as about sports scores.

Before I leave this point, let me point out that the two teams who experienced the greatest decline in season ticket sales this year were Kansas City, 17,694 fewer, and Miami, 17,322 fewer; Kansas City blacked out every game last year, and Miami televised only three home games. Obviously, the sports blackout law is not the direct result, as the NFL would have us believe.

H.R. 11070 contains an amendment that I proposed in subcommittee markup to remedy a problem that has long concerned me—the problem of an NFL imposed blackout of a nonsold-out home game well beyond 75 miles from the city of the game. Seventy-five miles is the distance the NFL uses in its bylaws to define a team's home territory. To give

you an example of the abuse of its definition, the NFL blacks out Fort Myers, Fla., 120 miles from Miami, and Mason City, Iowa, 126 miles from Minneapolis. My amendment provided—

First, that, in effect, no blackout of a professional football game may be instituted with regard to any television station that is located more than 75 miles from the limits of the city in which the game occurs; and second, that the FCC shall make three more reports to Congress on the effects of this law, so that should any of its provisions prove harmful in the future, this would be brought to the attention of Congress.

The language now in the bill, in essence, requires a recognition of the very definition of "home territory" that is contained in the NFL bylaws.

Mr. Speaker, the sports leagues have not been harmed, but the American people have benefited from the broadcast over public airways of sports events which they otherwise would have been unable to view.

I urge your support of this legislation.

Mr. MACDONALD of Massachusetts. Mr. Speaker, I have no further requests for time.

The SPEAKER. The question is on the motion offered by the gentleman from Massachusetts (Mr. MACDONALD) that the House suspend the rules and pass the bill, H.R. 11070, as amended.

The question was taken.

Mr. MILLER of Ohio. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Pursuant to the provisions of clause 3 of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

Does the gentleman from Ohio withdraw his point of order that there is no quorum?

Mr. MILLER of Ohio. I do, Mr. Speaker.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Debate has been concluded on all motions to suspend the rules.

Pursuant to the provisions of clause 3, rule XXVII, the Chair will now put the question on each motion on which further proceedings were postponed, in the order in which that motion was entertained.

Votes will be taken in the following order: H.R. 11016, de novo; H.R. 3035, de novo; and H.R. 11070, de novo.

The Chair will reduce to 5 minutes the time for any electronic votes after the first such vote in this series.

RENEGOTIATION ACT EXTENSION

The SPEAKER. The unfinished business is the question of suspending the rules and passing the bill H.R. 11016.

The Clerk read the title of the bill.

The SPEAKER. The question is on the motion offered by the gentleman from New Jersey (Mr. MINISH) that the House suspend the rules and pass the bill H.R. 11016.

The question was taken.

Mr. MILLER of Ohio. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 395, nays 5, not voting 34, as follows:

[Roll No. 779]

YEAS—395

Abdnor	Cornell	Hayes, Ind.
Abzug	Cotter	Hays, Ohio
Adams	Coughlin	Hechler, W. Va.
Addabbo	D'Amours	Hefner
Alexander	Daniel, Dan	Heinz
Allen	Daniel, R. W.	Helstoski
Ambro	Daniels, N.J.	Henderson
Anderson, Calif.	Danielson	Hicks
	Davis	Hightower
Anderson, Ill.	de la Garza	Hillis
Andrews, N. Dak.	Delaney	Holland
	Dellums	Holt
Annunzio	Dent	Holtzman
Archer	Derrick	Horton
Armstrong	Derwinski	Howard
Ashbrook	Devine	Howe
Ashley	Dickinson	Hubbard
Aspin	Diggs	Hughes
AuCoin	Dingell	Hutchinson
Badillo	Dodd	Hyde
Bafalis	Downey, N.Y.	Ichord
Baldus	Downing, Va.	Jacobs
Barrett	Drinan	Jeffords
Baucus	Duncan, Oreg.	Johnson, Calif.
Bauman	Duncan, Tenn.	Johnson, Colo.
Beard, R.I.	du Pont	Johnson, Pa.
Beard, Tenn.	Early	Jones, Ala.
Bedell	Eckhardt	Jones, N.C.
Bennett	Edgar	Jones, Okla.
Bergland	Edwards, Ala.	Jordan
Bevill	Edwards, Calif.	Karth
Biaggi	Eilberg	Kasten
Biester	Emery	Kastenmeier
Bingham	English	Kazen
Blanchard	Erlenborn	Kelly
Blouin	Esch	Kemp
Boggs	Eshleman	Ketchum
Boland	Evans, Colo.	Keys
Bolling	Evans, Ind.	Kindness
Bonker	Evins, Tenn.	Koch
Bowen	Fary	Krebs
Brademas	Fascell	Krueger
Breaux	Fenwick	LaFalce
Breckinridge	Findley	Lagomarsino
Brinkley	Fish	Landrum
Brodhead	Fisher	Latta
Brooks	Fithian	Leggett
Broomfield	Flood	Lehman
Brown, Calif.	Florio	Lent
Brown, Mich.	Flynt	Levitas
Brown, Ohio	Ford, Tenn.	Litton
Broyhill	Forsythe	Lloyd, Calif.
Buchanan	Fountain	Lloyd, Tenn.
Burgener	Frenzel	Long, La.
Burke, Calif.	Frey	Long, Md.
Burke, Mass.	Fuqua	Lott
Burleson, Tex.	Giaimo	Lujan
Burlison, Mo.	Gibbons	McClory
Burton, Phillip	Gilman	McCloskey
Butler	Ginn	McCollister
Byron	Gonzalez	McCormack
Carney	Goodling	McDade
Carr	Gradison	McEwen
Carter	Grassley	McFall
Casey	Green	McHugh
Cederberg	Gude	McKay
Chappell	Hagedorn	McKinney
Chisholm	Haley	Macdonald
Clancy	Hall	Madden
Clausen, Don H.	Hamilton	Madigan
	Hammer-schmidt	Maguire
Clawson, Del		Mahon
Clay	Hanley	Mann
Cleveland	Hannaford	Martin
Cochran	Hansen	Mathis
Cohen	Harkin	Matsunaga
Conable	Harrington	Mazzoli
Conlan	Harris	Meeds
Conte	Harsha	Melcher
Conyers	Hastings	Meyner
Corman	Hawkins	Mezvinsky
Michel	Pritchard	Stanton, James V.
Milford	Quie	Stark
Miller, Calif.	Quillen	Steed
Miller, Ohio	Railsback	Steelman
Mills	Randall	Steiger, Wis.
Mineta	Rangel	Stokes
Minish	Rees	Stratton
Mink	Regula	Stuckey
Mitchell, Md.	Reuss	Studds
Mitchell, N.Y.	Rhodes	Sullivan
Moakley	Richmond	Talcott
Moffett	Rinaldo	Taylor, Mo.
Mollohan	Risenhoover	Taylor, N.C.
Montgomery	Roberts	Teague
Moore	Robinson	Thone
Moorhead, Calif.	Roe	Thornton
	Rogers	Traxler
Moorhead, Pa.	Roncalio	Treen
Morgan	Rooney	Tsongas
Mosher	Rose	Udall
Moss	Rosenthal	Ullman
Mottl	Rostenkowski	Van Deerlin
Murphy, Ill.	Roush	Vander Jagt
Murphy, N.Y.	Rousselot	Vander Veen
Murtha	Roybal	Vanik
Myers, Ind.	Runnels	Vigorito
Myers, Pa.	Ruppe	Waggonner
Natcher	Ryan	Walsh
Neal	Santini	Wampler
Nedzi	Sarasin	Weaver
Nichols	Sarbanes	Whalen
Nix	Satterfield	White
Nowak	Scheuer	Whitehurst
Oberstar	Schneebeli	Whitten
Obey	Schroeder	Wiggins
O'Brien	Schulze	Wilson, Bob
O'Hara	Sebelius	Wilson, C. H.
O'Neill	Seiberling	Wilson, Tex.
Ottinger	Sharp	Winn
Passman	Shipley	Wirth
Patman, Tex.	Shriver	Wolff
Patten, N.J.	Shuster	Wright
Patterson, Calif.	Sikes	Wylie
	Sisk	Yates
Pattison, N.Y.	Skubitz	Yatron
Pepper	Slack	Young, Alaska
Perkins	Smith, Iowa	Young, Fla.
Pettis	Smith, Nebr.	Young, Ga.
Peyser	Snyder	Young, Tex.
Pike	Solarz	Zablocki
Poage	Spellman	Zeferetti
Pressler	Spence	
Preyer	Stanton, J. William	
Price		

NAYS—5

Collins, Tex.	McDonald	Symms
Crane	Steiger, Ariz.	

NOT VOTING—34

Andrews, N.C.	Hébert	Rodino
Bell	Heckler, Mass.	Russo
Burke, Fla.	Hinshaw	St Germain
Burton, John	Hungate	Simon
Collins, Ill.	Jarman	Staggers
Flowers	Jenrette	Stephens
Foley	Jones, Tenn.	Symington
Ford, Mich.	Metcalfe	Thompson
Fraser	Mikva	Waxman
Gaydos	Nolan	Wydler
Goldwater	Pickle	
Guyer	Riegle	

The Clerk announced the following pairs:

Mr. Hébert with Mr. Andrews of North Carolina.

Mr. Thompson with Mr. Ford of Michigan.

Mr. Waxman with Mr. Goldwater.

Mr. Symington with Mr. Metcalfe.

Mr. St Germain with Mrs. Heckler of Massachussetts.

Mr. Russo with Mr. Burke of Florida.

Mr. Staggers with Mr. Wydler.

Mr. Rodino with Mr. Guyer.

Mr. Jenrette with Mr. Simon.

Mr. Foley with Mr. Hinshaw.

Mr. John L. Burton with Mr. Jarman.

Mr. Flowers with Mr. Nolan.

Mr. Fraser with Mr. Jones of Tennessee.

Mr. Hungate with Mr. Riegle.

Mr. Mikva with Mr. Stephens.

Mr. Pickle with Mrs. Collins of Illinois.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the provisions of clause 3(b)(3), rule XXVII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all the additional motions to suspend the rules on which the Chair has postponed further proceedings.

EARNINGS ON TAX AND LOAN ACCOUNTS

The SPEAKER. The unfinished business is the question of suspending the rules and passing the bill (H.R. 3035), as amended.

The Clerk read the title of the bill.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. PATMAN) that the House suspend the rules and pass the bill H.R. 3035, as amended.

The question was taken.

Mr. MILLER of Ohio. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 391, nays 0, answered "present" 4, not voting 39, as follows:

[Roll No. 780]

YEAS—391

Abdnor	Burke, Mass.	Edgar
Abzug	Burleson, Tex.	Edwards, Ala.
Adams	Burlison, Mo.	Edwards, Calif.
Addabbo	Burton, Phillip	Eilberg
Alexander	Butler	Emery
Allen	Byron	English
Ambro	Carney	Erlenborn
Anderson, Calif.	Carr	Esch
	Carter	Eshleman
Anderson, Ill.	Casey	Evans, Colo.
Andrews, N. Dak.	Cederberg	Evans, Ind.
	Chappell	Evins, Tenn.
Annunzio	Chisholm	Fary
Archer	Clancy	Fascell
Armstrong	Clawson, Del	Fenwick
Ashbrook	Clay	Findley
Ashley	Cleveland	Fish
Aspin	Cochran	Fisher
AuCoin	Cohen	Fithian
Badillo	Collins, Tex.	Flood
Bafalis	Conable	Florio
Baldus	Conlan	Flynt
Barrett	Conte	Ford, Tenn.
Baucus	Conyers	Forsythe
Bauman	Corman	Fountain
Beard, Tenn.	Cornell	Frenzel
Bedell	Cotter	Frey
Bennett	Coughlin	Fuqua
Bergland	Crane	Giaimo
Bevill	D'Amours	Gibbons
Biaggi	Daniel, Dan	Gilman
Biester	Daniel, R. W.	Ginn
Bingham	Daniels, N.J.	Goldwater
Blanchard	Danielson	Gonzalez
Blouin	Davis	Goodling
Boggs	de la Garza	Gradison
Boland	Delaney	Grassley
Bolling	Dellums	Green
Bonker	Dent	Gude
Bowen	Derrick	Hagedorn
Brademas	Derwinski	Haley
Breaux	Devine	Hall
Breckinridge	Dickinson	Hamilton
Brinkley	Diggs	Hammer-schmidt
Brodhead	Dingell	
Brooks	Dodd	Hanley
Broomfield	Downey, N.Y.	Hannaford
Brown, Calif.	Downing, Va.	Hansen
Brown, Mich.	Drinan	Harkin
Brown, Ohio	Duncan, Oreg.	Harrington
Broyhill	Duncan, Tenn.	Harris
Buchanan	du Pont	Harsha
Burgener	Early	Hastings
Burke, Calif.	Eckhardt	Hawkins
Hayes, Ind.	Meyner	Ryan
Hays, Ohio	Mezvinsky	Santini
Hechler, W. Va.	Michel	Sarasin
Heckler, Mass.	Milford	Sarbanes
Hefner	Miller, Calif.	Satterfield
Heinz	Miller, Ohio	Scheuer
Helstoski	Mills	Schneebeli
Henderson	Mineta	Schroeder
Hicks	Minish	Schulze
Hightower	Mink	Sebelius
Hillis	Mitchell, Md.	Seiberling
Holland	Mitchell, N.Y.	Sharp
Holt	Moakley	Shriver
Holtzman	Moffett	Shuster
Horton	Mollohan	Sikes
Howard	Montgomery	Sisk
Howe	Moore	Skubitz
Hubbard	Moorhead, Calif.	Slack
Hughes		Smith, Iowa
Hutchinson	Moorhead, Pa.	Smith, Nebr.
Hyde	Morgan	Snyder
Ichord	Mosher	Solarz
Jacobs	Moss	Spellman
Jeffords	Mottl	Spence
Johnson, Calif.	Murphy, Ill.	Stanton, J. William
Johnson, Colo.	Murphy, N.Y.	
Johnson, Pa.	Murtha	Stanton, James V.
Jones, Ala.	Myers, Ind.	
Jones, N.C.	Myers, Pa.	Stark
Jones, Okla.	Natcher	Steed
Jordan	Neal	Steelman
Karth	Nedzi	Steiger, Ariz.
Kasten	Nix	Steiger, Wis.
Kastenmeier	Nowak	Stokes
Kazen	Oberstar	Stratton
Kelly	Obey	Stuckey
Kemp	O'Hara	Studds
Keys	O'Neill	Sullivan
Kindness	Ottinger	Symms
Koch	Passman	Talcott
Krebs	Patman, Tex.	Taylor, Mo.
Krueger	Patten, N.J.	Taylor, N.C.
LaFalce	Patterson, Calif.	Thone
Lagomarsino		Thornton
Landrum	Pattison, N.Y.	Traxler
Latta	Pepper	Treen
Leggett	Perkins	Tsongas
Lehman	Pettis	Udall
Lent	Peyser	Ullman
Levitas	Pike	Van Deerlin
Lloyd, Calif.	Poage	Vander Jagt
Lloyd, Tenn.	Pressler	Vander Veen
Long, La.	Preyer	Vanik
Long, Md.	Price	Vigorito
Lott	Pritchard	Waggonner
Lujan	Quie	Walsh
McClory	Railsback	Wampler
McCloskey	Randall	Weaver
McCollister	Rangel	Whalen
McCormack	Rees	White
McDade	Regula	Whitehurst
McDonald	Reuss	Whitten
McEwen	Rhodes	Wiggins
McFall	Richmond	Wilson, Bob
McHugh	Rinaldo	Wilson C. H.
McKay	Roberts	Wilson, Tex.
McKinney	Robinson	Wirth
Macdonald	Roe	Wolff
Madden	Rogers	Wright
Madigan	Roncalio	Wylie
Maguire	Rooney	Yates
Mahon	Rose	Yatron
Mann	Rosenthal	Young, Alaska
Martin	Rostenkowski	Young, Fla.
Mathis	Roush	Young, Ga.
Matsunaga	Rousselot	Young, Tex.
Mazzoli	Roybal	Zablocki
Meeds	Runnels	Zeferetti
Melcher	Ruppe	

NAYS—0

ANSWERED "PRESENT"—4

O'Brien	Shipley	Winn
Quillen		

NOT VOTING—39

Andrews, N.C.	Hébert	Risenhoover
Beard, R.I.	Hinshaw	Rodino
Bell	Hungate	Russo
Burke, Fla.	Jarman	St Germain
Burton, John	Jenrette	Simon
Clausen, Don H.	Jones, Tenn.	Staggers
	Ketchum	Stephens
Collins, Ill.	Litton	Symington
Flowers	Metcalfe	Teague
Foley	Mikva	Thompson
Ford, Mich.	Nichols	Waxman
Fraser	Nolan	Wydler
Gaydos	Pickle	
Guyer	Riegle	

The Clerk announced the following pairs:

Mr. Thompson with Mr. Stephens.
Mr. Hébert with Mr. Bell.
Mr. Teague with Mr. Guyer.
Mr. Ford of Michigan with Mr. Don H. Clausen.
Mr. Foley with Mr. Fraser.
Mr. Nichols with Mr. Hinshaw.
Mr. Nolan with Mr. Jarman.
Mr. Waxman with Mr. Hungate.
Mr. St Germain with Mr. Mikva.
Mr. Rodino with Mr. Burke of Florida.
Mr. Russo with Mr. Ketchum.
Mr. John L. Burton with Mr. Pickle.
Mrs. Collins of Illinois with Mr. Beard of Rhode Island.
Mr. Flowers with Mr. Riegle.
Mr. Jenrette with Mr. Risenhoover.
Mr. Litton with Mr. Simon.
Mr. Metcalfe with Mr. Andrews of North Carolina.
Mr. Staggers with Mr. Wydler.
Mr. Symington with Mr. Jones of Tennessee.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

SPORTS BROADCASTING ACT OF 1975

The SPEAKER. The unfinished business is the question of suspending the rules and passing the bill H.R. 11070, as amended.

The Clerk read the title of the bill.

The SPEAKER. The question is on the motion offered by the gentleman from Massachusetts (Mr. MACDONALD) that the House suspend the rules and pass the bill, H.R. 11070, as amended.

The question was taken.

Mr. MILLER of Ohio. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 363, nays 40, not voting 31, as follows:

[Roll No. 781]

YEAS—363

Abzug	Brademas	Coughlin
Adams	Breaux	D'Amours
Addabbo	Breckinridge	Daniel, Dan
Alexander	Brinkley	Daniel, R. W.
Allen	Brodhead	Daniels, N.J.
Ambro	Brooks	Danielson
Anderson, Calif.	Broomfield	de la Garza
	Brown, Calif.	Delaney
Anderson, Ill.	Brown, Mich.	Dellums
Andrews, N. Dak.	Brown, Ohio	Dent
	Broyhill	Derrick
Annunzio	Buchanan	Derwinski
Archer	Burgener	Devine
Ashbrook	Burke, Calif.	Dickinson
Ashley	Burke, Mass.	Diggs
Aspin	Burlison, Mo.	Dingell
AuCoin	Burton, Phillip	Dodd
Badillo	Butler	Downey, N.Y.
Bafalis	Byron	Downing, Va.
Baldus	Carney	Drinan
Barrett	Carr	Duncan, Oreg.
Baucus	Carter	du Pont
Bauman	Casey	Early
Beard, R.I.	Cederberg	Eckhardt
Bedell	Chappell	Edgar
Bennett	Chisholm	Edwards, Ala.
Bergland	Clancy	Edwards, Calif.
Bevill	Clawson, Del	Eilberg
Biaggi	Clay	Emery
Biester	Cleveland	English
Bingham	Cochran	Erlenborn
Blanchard	Cohen	Esch
Blouin	Conable	Eshleman
Boggs	Conte	Evans, Colo.
Boland	Conyers	Evans, Ind.
Bolling	Corman	Evins, Tenn.
Bonker	Cornell	Fary
Bowen	Cotter	Fascell

Fenwick	Lloyd, Tenn.	Richmond
Findley	Long, La.	Rinaldo
Fish	Long, Md.	Risenhoover
Fisher	Lott	Robinson
Fithian	Lujan	Roe
Flood	McCloskey	Rogers
Florio	McCollister	Roncalio
Ford, Tenn.	McCormack	Rooney
Forsythe	McDade	Rose
Frenzel	McFall	Rosenthal
Frey	McHugh	Rostenkowski
Fuqua	McKay	Roush
Giaimo	McKinney	Roybal
Gibbons	Macdonald	Runnels
Gilman	Madden	Ruppe
Ginn	Madigan	Ryan
Gonzalez	Maguire	Santini
Goodling	Mahon	Sarasin
Gradison	Mann	Sarbanes
Grassley	Martin	Scheuer
Green	Matsunaga	Schneebeli
Gude	Mazzoli	Schroeder
Hagedorn	Meeds	Schulze
Haley	Melcher	Sebelius
Hall	Meyner	Seiberling
Hamilton	Mezvinsky	Sharp
Hammer-schmidt	Michel	Shipley
Hanley	Miller, Calif.	Shriver
Hannaford	Miller, Ohio	Shuster
Harkin	Mills	Sikes
Harrington	Mineta	Sisk
Harris	Minish	Skubitz
Harsha	Mink	Slack
Hastings	Mitchell, Md.	Smith, Iowa
Hawkins	Mitchell, N.Y.	Smith, Nebr.
Hayes, Ind.	Moakley	Solarz
Hays, Ohio	Moffett	Spellman
Hechler, W. Va.	Mollohan	Staggers
Heckler, Mass.	Montgomery	Stanton, James V.
Hefner	Moore	Stark
Heinz	Moorhead, Pa.	Steed
Helstoski	Morgan	Steelman
Henderson	Mosher	Steiger, Wis.
Hightower	Moss	Stokes
Hillis	Mottl	Stratton
Holland	Murphy, Ill.	Studds
Holt	Murphy, N.Y	Sullivan
Holtzman	Myers, Ind.	Taylor, Mo.
Horton	Myers, Pa.	Taylor, N.C.
Howard	Natcher	Teague
Howe	Neal	Thone
Hubbard	Nedzi	Thornton
Hughes	Nichols	Traxler
Hutchinson	Nix	Tsongas
Hyde	Nolan	Udall
Ichord	Nowak	Ullman
Jacobs	Oberstar	Van Deerlin
Jeffords	Obey	Vander Jagt
Johnson, Calif.	O'Brien	Vander Veen
Johnson, Colo.	O'Hara	Vanik
Johnson, Pa.	O'Neill	Vigorito
Jones, Ala.	Ottinger	Waggonner
Jones, N.C.	Passman	Walsh
Jones, Okla.	Patman, Tex.	Wampler
Jordan	Patten, N.J.	Weaver
Karth	Patterson, Calif.	White
Kasten	Pattison, N.Y.	Whitehurst
Kastenmeier	Pepper	Wiggins
Kazen	Perkins	Wilson, C. H.
Kelly	Pettis	Wilson, Tex.
Ketchum	Peyser	Winn
Keys	Pike	Wirth
Kindness	Pressler	Wolff
Koch	Preyer	Wright
Krebs	Price	Wylie
LaFalce	Pritchard	Yates
Lagomarsino	Quie	Yatron
Latta	Quillen	Young, Alaska
Leggett	Railsback	Young, Fla.
Lehman	Randall	Young, Ga.
Lent	Rangel	Young, Tex.
Levitas	Rees	Zablocki
Litton	Regula	Zeferetti
Lloyd, Calif.	Reuss	

NAYS—40

Abdnor	Kemp	Rousselot
Armstrong	Krueger	Satterfield
Beard, Tenn.	Landrum	Snyder
Burleson, Tex.	McClory	Spence
Collins, Tex.	McDonald	Stanton, J. William
Conlan	McEwen	Steiger, Ariz.
Crane	Mathis	Stuckey
Davis	Milford	Symms
Duncan, Tenn.	Moorhead, Calif.	Talcott
Flynt	Murtha	Treen
Fountain	Poage	Whalen
Goldwater	Rhodes	Whitten
Hansen	Roberts	Wilson, Bob
Hicks		

NOT VOTING—31

Andrews, N.C.	Burton, John	Collins, Ill.
Bell	Clausen, Don H.	Flowers
Burke, Fla.		Foley
Ford, Mich.	Jenrette	St Germain
Fraser	Jones, Tenn.	Simon
Gaydos	Metcalfe	Stephens
Guyer	Mikva	Symington
Hébert	Pickle	Thompson
Hinshaw	Riegle	Waxman
Hungate	Rodino	Wydler
Jarman	Russo	

The Clerk announced the following pairs:

Mr. Thompson with Mr. Andrews of North Carolina.
Mr. Hébert with Mr. Burke of Florida.
Mr. Ford of Michigan with Mr. Fraser.
Mr. Riegle with Mr. Bell.
Mr. Pickle with Mr. Jarman.
Mr. Mikva with Mr. Guyer.
Mr. Foley with Mr. Simon.
Mr. Flowers with Mr. Don H. Clausen.
Mrs. Collins of Illinois with Mr. St Germain.
Mr. John L. Burton with Mr. Jones of Tennessee.
Mr. Jenrette with Mr. Metcalfe.
Mr. Hungate with Mr. Stephens.
Mr. Waxman with Mr. Wydler.
Mr. Russo with Mr. Symington.
Mr. Rodino with Mr. Hinshaw.

Messrs. GRASSLEY, DEVINE, and ASHBROOK changed their votes from "nay" to "yea."

Messrs. POAGE, ROBERTS, WHITTEN, and BURLESON of Texas changed their votes from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. MACDONALD of Massachusetts. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 2554) to amend Public Law 93–107 with regard to the broadcasting of certain professional sports clubs' games.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2554

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of Public Law 93–107 (87 Stat. 351) is amended by striking out "December 31, 1975" and inserting in lieu thereof "December 31, 1978".

SEC. 2. Section 331 of the Communications Act of 1934 (47 U.S.C. 331), as added by Public Law 93–107 (87 Stat. 350), is amended by—

(1) amending subsection (a) thereof in the first sentence thereof by inserting after "sports club" and before "is to be" the following: ", other than a postseason game of a professional baseball, basketball, or hockey club,";

(2) amending subsection (a) thereof by inserting at the end of the first sentence thereof the following new sentence: "If any postseason game of a professional baseball, basketball, or hockey club is to be broadcast by means of television pursuant to a league television contract and all tickets of admission for seats at such game which are available for purchase by the general public have been purchased twenty-four hours or more before the scheduled beginning time of such game, no agreement which would prevent the broadcasting by means of television of such game at the same time and in the area in which such game is being played shall be valid or have any force or effect.";

(3) amending subsection (c) thereof by inserting at the end thereof the following new paragraph:

"(5) The term 'postseason game' means any game which is played by a professional sports club (A) after the conclusion of such club's regular season, and (B) in order to determine or in the course of determining the championship of the sport in which such club is engaged."; and

(4) amending subsection (d) thereof in the first sentence thereof by striking out "April 15" and inserting in lieu thereof "June 15".

MOTION OFFERED BY MR. MACDONALD OF MASSACHUSETTS

Mr. MACDONALD of Massachusetts. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MACDONALD of Massachusetts moves to strike out all after the enacting clause of S. 2554 and insert in lieu thereof the provisions of the bill H.R. 11070, as passed.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "To amend the Communications Act of 1934 with regard to the broadcasting of certain professional sports clubs' games."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 11070) was laid on the table.

APPOINTMENT OF CONFEREES ON S. 2554, TO AMEND COMMUNICATIONS ACT OF 1935 WITH REGARD TO BROADCASTING OF CERTAIN PROFESSIONAL SPORTS CLUBS' GAMES

Mr. MACDONALD of Massachusetts. Mr. Speaker, I ask unanimous consent that the House insist on its amendments to the Senate bill S. 2554, to amend the Communications Act of 1935 with regard to broadcasting of certain professional sports clubs' games, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts? The Chair hears none, and appoints the following conferees: Messrs. STAGGERS, MACDONALD of Massachusetts, MURPHY of New York, CARNEY, BYRON, FREY, and MADIGAN.

CONFERENCE REPORT ON H.R. 4073 TO EXTEND REGIONAL DEVELOPMENT ACT AMENDMENTS OF 1975 FOR AN ADDITIONAL 2-FISCAL-YEAR PERIOD

Mr. JONES of Alabama submitted the following conference report and statement on the bill (H.R. 4073) Regional Development Act Amendments of 1975:

CONFERENCE REPORT (H. REPT. No. 94–727)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4073) to extend the Appalachian Regional Development Act of 1965 for an additional two-fiscal-year period, having met, after full and free conference, have agreed to recom-

mend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate 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 Senate amendment insert the following:

That this Act may be cited as the "Regional Development Act of 1975".

TITLE I

SEC. 101. This title may be cited as the "Appalachian Regional Development Act Amendments of 1975".

SEC. 102. Section 2 of the Appalachian Regional Development Act of 1965 (40 App. U.S.C. 2) is amended by inserting "(a)" after "SEC. 2." and adding the following new subsection:

"(b) The Congress further finds and declares that while substantial progress has been made toward achieving the foregoing purposes, especially with respect to the provision of essential public facilities, much remains to be accomplished, especially with respect to the provision of essential health, education, and other public services. The Congress recognizes that changes and evolving national purposes in the decade since 1965 affect not only the Appalachian region, but also its relationship to a nation now assigning higher priority to conservation and the quality of life, values long cherished within the region. Appalachia now has the opportunity, in accommodating future growth and development, to demonstrate local leadership and coordinated planning so that housing, public services, transportation and other community facilities will be provided in a way congenial to the traditions and beauty of the region and compatible with conservation values and an enhanced quality of life for the people of the region. The Congress recognizes also that fundamental changes are occurring in national energy requirements and production, which not only risk short-term dislocations but will undoubtedly result in major long-term effects in the region. It is essential that the opportunities for expanded energy production be used so as to maximize the social and economic benefits and minimize social and environmental costs to the region and its people. It is, therefore, also the purpose of this Act to provide a framework for coordinating Federal, State and local efforts toward (1) anticipating the effects of alternative energy policies and practices, (2) planning for accompanying growth and change so as to maximize the social and economic benefits and minimize social and environmental costs, and (3) implementing programs and projects carried out in the region by Federal, State, and local governmental agencies so as to better meet the special problems generated in the region by the Nation's energy needs and policies, including problems of transportation, housing, community facilities, and human services.".

SEC. 103. Section 101 of the Appalachian Regional Development Act of 1965 (40 App. U.S.C. 101) is amended as follows:

(1) The third sentence of subsection (a) is amended to read as follows: "Each State member shall be the Governor.".

(2) The last sentence of subsection (a) is amended by striking the period and inserting the following: "for a term of not less than one year.".

(3) Subsection (b) is amended by adding the following: "No decision involving Commission policy, approval of State, regional or subregional development plans or implementing investment programs, any modification or revision of the Appalachian Regional Commission Code, or any allocation of funds among the States may be made without a quorum of State members present. The approval of project and grant proposals shall be a responsibility of the Commission and exercised in accordance with section 303 of this Act.".

(4) The first sentence of subsection (c) is amended to read as follows: "Each State member may have a single alternate, appointed by the Governor from among the members of the Governor's cabinet or the Governor's personnal staff.".

(5) Subsection (c) is amended by adding at the end thereof the following: "A State alternate shall not be counted toward the establishment of a quorum of the Commission in any instance in which a quorum of the State members is required to be present. No Commission powers or responsibilities specified in the last two sentences of subsection (b) of this section, nor the vote of any Commission member, may be delegated to any person not a Commission member or who is not entitled to vote in Commission meetings."

SEC. 104. Subsection (d) of section 101 of the Appalachian Regional Development Act of 1965 (40 App. U.S.C. 101) is amended to read as follows:

"(d) The Federal Cochairman shall be compensated by the Federal Government at level III of the Executive Schedule in subchapter II of chapter 53 of title V, United States Code. His alternate shall be compensated by the Federal Government at level V of such Executive Schedule, and when not actively serving as an alternate for the Federal Cochairman, shall perform such functions and duties as are delegated to him by the Federal Cochairman. Each State member and his alternate shall be compensated by the State which they represent at the rate established by law of such State.".

SEC. 105. Section 102 of the Appalachian Regional Development Act of 1965 (40 App. U.S.C. 102) is amended by inserting "(a)" after "SEC. 102." and adding the following new subsection:

"(b) In carrying out its functions under this section, the Commission shall identify the characteristics of, and may distinguish between the needs and goals of appropriate subregional areas, including central, northern, and southern Appalachia."

SEC. 106. Section 105(b) of the Appalachian Regional Development Act of 1965 (40 App. U.S.C. 105) is amended by adding at the end thereof the following new sentence: "To carry out this section there is hereby authorized to be appropriated to the Commission, to be available until expended, not to exceed $4,600,000 for the period beginning July 1, 1975, and ending September 30, 1977 (of such amount not to exceed $800,000 shall be available for expenses of the Federal cochairman, his alternate and his staff), and not to exceed $5,000,000 for the two-fiscal-year period ending September 30, 1979 (of such amount not to exceed $900,000 shall be available for expenses of the Federal cochairman, his aternate and his staff).".

SEC. 107. Paragraph (7) of section 106 of the Appalachian Regional Development Act of 1965 (40 App. U.S.C. 106) is amended by striking out "June 30, 1975" and inserting in lieu thereof, "September 30, 1979".

SEC. 108. Paragraph (2) of section 106 of the Appalachian Regional Development Act of 1965 (40 App. U.S.C. 106) is amended by inserting after the first sentence the following: "The executive functions of the Commission, for direction of the Commission staff, and for such other duties as the Commission may assign.".

SEC. 109. Section 107 of the Appalachian Regional Development Act of 1965 (40 App. U.S.C. 107) is amended by inserting "(a)" after "SEC. 107." and adding the following new subsection:

"(b) Public participation in the development, revision, and implementation of all plans and programs under this Act by the Commission, any State or any local development district shall be provided for, encouraged, and assisted. The Commission shall develop and publish regulations specifying minimum guidelines for such public participation, including public hearings.".

SEC. 110. Section 201 of the Appalachian Regional Development Act of 1965 (40 App. U.S.C. 201) is amended as follows:

(1) The third sentence of subsection (a) is amended by striking "two thousand seven hundred miles" and inserting in lieu thereof "two thousand nine hundred miles"; and the fourth sentence of subsection (a) is amended by striking "one thousand six hundred miles" and inserting in lieu thereof "one thousand four hundred miles".

(2) Subsection (g) is amended by striking "and $180,000,000 for the fiscal year ending June 30, 1978." and inserting in lieu thereof $250,000,000 for fiscal year 1978; $300,000,000 for fiscal year 1979; $300,000,000 for fiscal year 1980; and $170,000,000 for fiscal year 1981.".

SEC. 111. Section 202 of the Appalachian Regional Development Act of 1965 (40 App. U.S.C. 202) is amended as follows:

(1) The second sentence of subsection (a) is amended by (A) inserting after "not operated for profit" the phrase ", or previously operated for profit where the acquisition of such facilities is the most cost-effective means for providing increased health services if the Commission finds that but for the acquisition of such facility such health services would not be otherwise provided in the area served by such facility,", and (B) inserting after "made in accordance" the phrase "with section 223 of this Act and shall not be incompatible".

(2) The third sentence of subsection (c) of such section is amended by inserting "and title XX" after "title IV, parts A and B,".

SEC. 112. Section 205 of the Appalachian Regional Development Act of 1965 (40 App. U.S.S. 205) is amended as follows:

(1) The first sentence of subsection (a) (1) is amended by striking "and to control and abate mine drainage pollution." and inserting in lieu thereof "to control and abate mine draining pollution; and for planning or engineering for any such activities.".

(2) The first sentence of subsection (a) (2) is amended by inserting "planning, engineering, or" after "projects for".

(3) The second sentence of subsection (b) of such section is amended by inserting "(including, but not limited to, sand, clay, stone, culm, rock, spoil bank and noncombustible materials)" after "materials",

(4) Subsection (c) is amended to read as follows:

"(c) Whenever a State, local government, or other nonprofit applicant agrees to indemnify the Federal Government, or its officers, agents, or employees, for all claims of loss or damage resulting from the use and occupation of lands for a project assisted under this section, the Secretary may waive all requirements for the submission of releases, consents, waivers, or similar instruments respecting such lands, but the Secretary may require security as he deems appropriate for any such indemnification agreement.".

(5) Subsection (d) is amended to read as follows:

"(d) No moneys authorized by this Act shall be expended for the purposes of reclaiming, improving, grading, seeding, or reforestation of strip-mined areas, except on lands owned by Federal, State, or local government bodies or by private nonprofit entities organized under State law to be used for public recreation, conservation, community facilities, or public housing.".

SEC. 113. Section 207 of the Appalachian Regional Development Act of 1965 (40 App. U.S.C. 207) is amended as follows:

(1) Subsection (a) is amended to read as follows:

"(a) In order to encourage and facilitate

the construction or rehabilitation of housing to meet the needs of low- and moderate-income families and individuals, the Secretary of Housing and Urban Development (hereafter in this section referred to as the 'Secretary') is authorized to make grants and loans from the Appalachian Housing Fund established by this section, under such terms and conditions as he may prescribe, to nonprofit, limited dividend, or cooperative organizations, and public bodies, for planning and obtaining federally insured mortgage financing or other financial assistance for housing construction or rehabilitation projects for low- and moderate-income families and individuals, under section 221 of the National Housing Act, section 8 of the United States Housing Act of 1937, section 515 of the Housing Act of 1949, or any other law of similar purpose administered by the Secretary or any other department, agency, or instrumentality of the Federal or State government, in any area of the Appalachian region determined by the Commission."

(2) Subsection (c)(2) is amended to read as follows:

"(2) The Secretary is authorized to make grants and commitments for grants, and may advance funds under such terms and conditions as he may require, to nonprofit, limited dividend, or cooperative organizations and public bodies for reasonable site development costs and necessary offsite improvements, such as sewer and water line extensions, whenever such a grant, commitment, or advance is essential to the economic feasibility of any housing construction or rehabilitation project for low- and moderate-income families and individuals which otherwise meets the requirements for assistance under this section, except that no such grant for the construction of housing, shall exceed 10 per centum of the cost of such project, and no such grant for the rehabilitation of housing shall exceed 10 per centum of the reasonable value of such rehabilitation housing, as determined by the Secretary.".

(3) Subsection (e) is amended by inserting before the period at the end, the following: "and may provide funds to the States for making grants and loans to nonprofit, limited dividend, or cooperative organizations and public bodies for the purposes for which the Secretary is authorized to provide funds under this section".

(4) By adding the following new subsection (f):

"(f) Programs and projects assisted under this section shall be subject to the provisions cited in section 402 of the Act, notwithstanding such section, to the extent provided in the laws authorizing assistance for low- and moderate-income housing.".

SEC. 114. Section 211 of the Appalachian Regional Development Act of 1965 (40 App. U.S.C. 214) is amended as follows:

(1) The first sentence of subsection (b)(1) is amended by striking out everything after "operating" and inserting in lieu thereof, "education projects which will serve to demonstrate areawide education planning, services, and programs, with special emphasis on vocational and technical education, career education, cooperative and recurrent education, guidance and counseling. Projects shall be selected with the involvement of all sectors of the community, including industry and labor.".

(2) Subsection (b)(2) is amended by striking out "a vocational and technical" and inserting in lieu thereof, "an".

(3)(a) The first and third sentences of subsection (b)(3) are amended by striking out "vocational and technical".

(b) The fourth sentence of subsection (b)(3) is amended by striking out "a vocational and technical" and inserting in lieu thereof, "an".

(4) Subsection (b)(4) is amended by striking out "a vocational and technical" and inserting in lieu thereof, "an".

(5) Subsection (b)(5) is amended to read as follows:

"(5) No grant for planning, construction, equipment, or operation of an education demonstration project shall be made unless the facility is publicly owned, but this shall not be deemed to preclude training or on-the-job employment activities away from such facility if the project is administered through a public body.".

SEC. 115. Section 214 of the Appalachian Regional Development Act of 1965 (40 App. U.S.C. 214) is amended as follows:

(1) The first sentence of subsection (a) of such section is amended by inserting after "projects", where it first appears in such subsection, "or activities (hereinafter referred to as projects)".

(2) The first sentence of subsection (c) of such section is amended to read as follows: "The term 'Federal grant-in-aid programs' as used in this section means those Federal grant-in-aid programs authorized on or before December 31, 1978, by this Act and Acts other than this Act for the acquisition or development of land, the construction or equipment of facilities, or other community or economic development or economic adjustment activities, including but not limited to grant-in-aid programs authorized by the following Acts: Federal Water Pollution Control Act; Watershed Protection and Flood Prevention Act; titles VI and XVI of the Public Health Services Act; Vocational Education Act of 1963; Library Services and Construction Act; Federal Airport Act; Airport and Airway Development Act of 1970; part IV of title III of the Communications Act of 1934; title VI (part A) and VII of the Higher Education Act of 1965; Land and Water Conservation Fund Act of 1965; National Defense Education Act of 1958; Consolidated Farm and Rural Development Act; titles I and IX of the Public Works and Economic Development Act of 1965; the housing repair program for homeowners authorized by section 1319 of title 42, United States Code; grants under the Indian Health Service Act (42 Stat. 208); and title I of the Housing and Community Development Act of 1974.".

SEC. 116. Clause (1) of section 223 of the Appalachian Regional Development Act of 1965 (40 App. U.S.C. 223) is amended by striking "compatible" and inserting in lieu thereof "not incompatible". Clause (2) of section 223 of the Appalachian Regional Development Act of 1965 (40 App. U.S.C. 223) is amended to read as follows: "(2) the Commission has approved such program or project and has determined that it meets the applicable criteria under section 224 of this Act and the requirements of the development planning process under section 225, and will contribute to the development of the region, which determination shall be controlling and which shall be accepted by the Federal agencies.".

SEC. 117. Section 224 of the Appalachian Regional Development Act of 1965 (40 App. U.S.C. 224) is amended by adding at the end the following new subsection:

"(c) Funds may be provided for programs and projects in a State under this Act only if the Commission determines that the level of Federal and State financial assistance under Acts other than this Act for the same type of programs or projects in that portion of the State within the region, will not be diminished in order to substitute funds authorized by this Act.".

SEC. 118. There is inserted after section 224 of the Appalachian Regional Development Act of 1965 (40 App. U.S.C. 224) a new section as follows:

"APPALACHIAN STATE DEVELOPMENT PLANNING PROCESS

"SEC. 225. (a) Pursuant to policies established by the Commission, each State member shall submit on such schedule as the Commission shall prescribe a development plan for the area of the State within the region. The State development plan shall reflect the goals, objectives, and priorities identified in the regional development plan and in any subregional development plan which may be approved for the subregion of which such State is a part. Such State development plan shall (1) describe the State organization and continuous process for Appalachian development planning, including the procedures established by the State for the participation of local development districts in such process, the means by which such process is related to overall statewide planning and budgeting processes, and the method of coordinating planning and projects in the region under this Act, the Public Works and Economic Development Act of 1965, and other Federal, State, and local programs; (2) set forth the goals, objectives, and priorities of the State for the region, as determined by the Governor, and identify the needs on which such goals, objectives, and priorities are based; and (3) describe the development program for achieving such goals, objectives, and priorities, including funding sources, and recommendations for specific projects to receive assistance under this Act.

"(b)(1) Local development districts certified by the State under section 301 of this Act provide the linkage between State and substate planning and development. In carrying out the development planning process, including the selection of programs and projects for assistance, States shall consult with local development districts, local units of government, and citizen groups and take into consideration the goals, objectives, priorities, and recommendations of such bodies. The districts shall assist the States in the coordination of areawide programs and projects, and may prepare and adopt areawide plans or action programs.

"(2) The Commission shall encourage the preparation and execution of areawide action programs which specify interrelated projects and schedules of actions together with the necessary agency fundings and other commitments to implement such programs. Such programs shall make appropriate use of existing plans affecting the area.

"(c) To the maximum extent practicable, Federal departments, agencies, and instrumentalities undertaking or providing financial assistance for programs or projects in the region shall (1) take into account the policies, goals, and objectives established by the Commission and its member States pursuant to this Act; (2) recognize Appalachian State development programs approved by the Commission as satisfying requirements for overall economic development planning under such programs or projects; and (3) accept the boundaries and organization of any local development district certified under this Act which the Governor may designate as the areawide agency required under any such program undertaken or assisted by such Federal departments, agencies, and instrumentalities."

SEC. 119. Section 302 of the Appalachian Regional Development Act of 1965 (40 App. U.S.C. 302) is amended as follows:

(1) Subsection (a)(1) is amended by striking "including technical services," and inserting in lieu thereof "including the development of areawide plans or action programs and technical assistance activities,".

(2) Subsection (a) is amended by striking "and" after paragraph (1), by redesignating paragraph (2) as paragraph (3), and by inserting the following new paragraph:

"(2) to make grants to the Commission for assistance to States for a period not in excess of two years to strengthen the State development planning process for the region and the coordination of State planning under this Act, the Public Works and Economic Development Act of 1965, as amended, and other Federal and State programs; and".

(3) Subsection (b) is amended to read as follows:

"(b) (1) Notwithstanding the provisions of section 224(b)(2), (3), or (4), the Commission may provide assistance under this section for demonstrations of enterprise development, including site acquisition or development where necessary for the feasibility of the project, in connection with the development of the region's energy resources and the development and stimulation of indigenous arts and crafts of the region. No more than $3,000,000 shall be obligated for such energy resource related demonstrations in any fiscal year, and no more than $2,500,000 shall be obligated for such indigenous arts and crafts demonstrations.

"(2) In carrying out the purposes of this Act, including section 2(b), and in implementing this section, the Federal Energy Administration, the Energy Research and Development Administration, the Environmental Protection Agency, and other Federal agencies shall cooperate with the Commission and shall provide such assistance as the Federal Cochairman may request.

"(3) The Commission shall conduct a study and report on the status of Appalachian migrants in the destinations to which they have migrated, current migration patterns and implications, and the impact which the Commission program has had, and the potential for such impact, on out-migration and the welfare of Appalachian migrants. The Commission is authorized to conduct pilot projects and demonstrations within the region in connection with such study.

"(4) The Commission shall conduct a study of physical hazards which are constraints on land use in the Appalachian region (with emphasis on mudslides, landslides, sink holes, and subsidence) and the risks associated with such hazards. To the extent practicable, such study shall identify high-risk hazard areas throughout the Appalachian region. The Commission shall submit its report on such study, together with recommendations for means to remove or avoid such constraints on land use, to the Congress not later than twenty-four months after the enactment of this paragraph.".

SEC. 120. Section 303 of the Appalachian Regional Development Act of 1965 (40 App. U.S.C. 303) is amended to read as follows:

"APPROVAL OF DEVELOPMENT PLANS, INVESTMENT PROGRAMS, AND PROJECTS

"SEC. 303. State and Regional Development Plans and implementing investment programs, and any multistate subregional plans which may be developed, shall be annually reviewed and approved by the Commission in accordance with section 101(b) of this Act. An application for a grant or for any other assistance for a specific project under this Act shall be made through the State member of the Commission representing such applicant, and such State member shall evaluate the application for approval. Only applications for grants or other assistance for specific projects shall be approved which are certified by the State member and determined by the Federal Cochairman to implement the Commission-approved State development plan; to be included in the Commission-approved implementing investment program; to have adequate assurance that the project will be properly administered, operated, and maintained; and to otherwise meet the requirements for assistance under this Act. After the approval of the appropriate State development plan and implementing investment program, certification by a State member of an application for a grant or other assistance for a specific project pursuant to this section shall, when joined by an affirmative vote of the Federal Cochairman for such project, be deemed to satisfy the requirements for affirmative votes for decisions under section 101(b) of this Act.".

SEC. 121. Section 401 of the Appalachian Regional Development Act of 1965 (40 App. U.S.C. 401) is amended by adding at the end thereof the following new sentence: "In addition to the appropriations authorized in section 105 for administrative expenses, and in section 201(g) for the Appalachian development highway system, and local access roads, there is authorized to be appropriated to the President, to be available until expended, to carry out this Act, $340,000,000 for the period beginning July 1, 1975, and ending September 30, 1977, and $300,000,000 for the two-fiscal year period ending September 30, 1979.".

SEC. 122. (a) Section 405 of the Appalachian Regional Development Act of 1965 (40 App. U.S.C. 405) is amended by striking "July 1, 1975" and inserting in lieu thereof, "October 1, 1979".

(b) The Appalachian Regional Commission shall submit to Congress by July 1, 1977, a report on the progress being made on implementing section 2(b) of the Appalachian Regional Development Act of 1965, the energy related enterprise development demonstration authority in section 302 of such Act, and other amendments made by this title.

SEC. 123. Section 104 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121) is repealed.

SEC. 124. To the extent that any section of this title provides new or increased authority to enter into contracts under section 201 of the Appalachian Regional Development Act of 1965, such new or increased authority shall be effective for any fiscal year only in such amounts as are provided in appropriation acts.

TITLE II

SEC. 201. This title may be cited as the "Regional Action Planning Commission Improvement Act of 1975".

SEC. 202. Section 509(d) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3188(a)), as amended, is amended, to read as follows:

"(d)(1) There are authorized to be appropriated to the Secretary to carry out this title, for the two-fiscal-year period ending June 30, 1971, to be available until expended, not to exceed $225,000,000; and for the two-fiscal-year period ending June 30, 1973, to be available until expended, not to exceed $305,000,000; for the fiscal year ending June 30, 1974, to be available until expended, $95,000,000; for the fiscal year ending June 30, 1975, to be available until expended, $150,000,000; for the fiscal year ending June 30, 1976, to be available until expended, $200,000,000; for the transition quarter ending September 30, 1976, to be available until expended, $50,000,000; and for the fiscal year ending September 30, 1977, to be available until expended, $250,000,000. After deducting such amounts as are authorized to carry out subsections (a)(1) and (b) of section 505, the Secretary shall apportion the remainder of the sums appropriated under this authorization for any fiscal year among the regional commissions which have been established for more than two fiscal years.

"(2) There are authorized to be appropriated to the Secretary as are necessary for the management and authorized activities under this title of any new commissions for their first two full fiscal years, for the fiscal year ending June 30, 1976, to be available until expended, not to exceed $5,000,000; for the transition quarter ending September 30, 1976, to be available until expended, not to exceed $1,250,000; and for the fiscal year ending September 30, 1977, to be available until expended, not to exceed $5,000,000."

SEC. 203. Section 513 of the Public Works and Economic Development Act of 1965, as amended, is amended, to read as follows:

"REGIONAL TRANSPORTATION

"SEC. 513. (a) Each regional commission, with the assistance of the Secretary of Transportation, is authorized to conduct and facilitate full and complete investigations and studies of the transportation needs of economic development regions established under this title. Such studies and investigations should analyze the effectiveness of regional transportation systems for meeting the purposes of this Act. The information gathered from these studies and investigations should determine the types of transportation facilities needed in the region and be of value in planning for such transportation facilities.

"(b) Each regional commission, with the assistance of the Secretary of Transportation, is authorized to make grants for the planning of regional transportation networks and to make grants for the construction, purchase of equipment, and operation (including payment of operating deficits) for transportation demonstration projects. Grants under this section shall be made solely out of funds specifically appropriated for the purpose of carrying out this title and shall not be taken into account in the computation of the allotments among the States made pursuant to any other provisions of law.

"(c) No grant for the construction or equipment for any component of a demonstration transportation project shall exceed 80 per centum of such cost. The Federal contribution may be provided entirely from funds authorized under this section or in combination with funds authorized under other Federal grant-in-aid programs for the construction of transportation facilities. Notwithstanding any other provision of law, funds authorized under this section may be used to increase the Federal share of any such project to 80 per centum of the cost of such facilities.

"(d) Not to exceed $5,000,000 of the funds apportioned to each regional commission under section 509 of this title shall be expended in any one fiscal year for the purpose of carrying out this section.".

SEC. 204. Title V of the Public Works and Economic Development Act of 1965, as amended, is amended by adding the following new section at the end thereof:

"ENERGY DEMONSTRATION PROJECTS AND PROGRAMS

"SEC. 515. (a) Fundamental changes are occurring in national energy requirements and production which could result in short-term dislocation and result in major long-term effects on various regions of the country. Expanded energy production opportunities must maximize social and economic benefits while minimizing social and environmental costs to the regions experiencing increased energy development. In some regions, impacted by limited, energy resources, severe problems disruptive of regional economies could result. The programs of the regional commissions provide an excellent framework for coordinating Federal, State, and local efforts toward (1) anticipating the effects of alternative energy policies and practices, (2) planning for accompanying growth and change so as to maximize social and economic benefits and minimize the social and environmenal costs, and (3) implementing programs and projects carried out in the regions by Federal, State, or local government agencies so as to better meet the special problems generated in the regions by the Nation's energy needs and policies, including problems of transportation, housing, community facilities, and human services.

"(b) Each regional commission is authorized to carry out energy-related demonstration projects and programs within its regions including programs and projects addressing the social, economic, and environmental impact of energy development, requirements, and utilization. Grants shall be made only to those projects which are developed through regional planning designed to identify the effects of regional resource development, requirements, utilization, and

impact. Each regional commission is authorized to carry out demonstration projects within its region in connection with the development and stimulation of indigenous arts and crafts of the region.

"(c) Not to exceed $5,000,000 of the funds apportioned to each regional commission under section 509 of this title shall be expended in any one fiscal year for the purpose of carrying out the energy-related provisions of this section, and not to exceed $2,500,000 of such funds shall be expended in any one fiscal year for indigenous arts and crafts demonstrations.".

SEC. 205. Title V of such Act is further amended by adding the following new section at the end thereof:

"HEALTH AND NUTRITION DEMONSTRATION PROJECTS

"SEC. 516. (a) In order to demonstrate the value of adequate health facilities and services to the economic development of the region, the Secretary of Health, Education, and Welfare is authorized to make grants for the planning, construction, equipment, and operation of multicounty demonstration health, and nutrition projects including hospitals, regional health diagnostic and treatment centers, and other facilities and services necessary for the purpose of this section. Grants for such construction (including the acquisition of privately owned facilities not operated for profit or previously operated for profit where the acquisition of such facilities is the most cost effective means for providing increased health services, and initial equipment) shall be made after applications and plans relating to the program or project have been determined by the responsible Federal official to be compatible with the provisions and objectives of Federal laws which he administers that are not inconsistent with this title, and the regional commission has approved such program or project and determined that it will contribute to the development of the region, and shall not be incompatible with the applicable provisions of title VI of the Public Health Service Act (42 U.S.C. 291–291o), the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 (77 Stat. 282), and other laws authorizing grants for the construction of health-related facilities, without regard to any provisions therein relating to appropriation authorization ceilings or to allotments among the States. Grants under this section shall be made solely out of funds specifically appropriated for the purpose of carrying out this title and shall not be taken into account in the computation of the allotments among the States made pursuant to any other provision of law.

"(b) No grant for the construction or equipment of any component of a demonstration health project shall exceed 80 per centum of such costs. The Federal contribution may be provided entirely from funds authorized under this title or in combination with funds provided under other Federal grant-in-aid programs for the construction or equipment of health-related facilities. Notwithstanding any provision of law limiting the Federal share in such other programs, funds authorized under this title may be used to increase Federal grants for component facilities of a demonstration health project to a maximum of 80 per centum of the costs of such facilities.

"(c) Grants under this section for operation (including initial operating funds and operating deficits comprising among other items the cost of attracting, training, and retaining qualified personnel) of a demonstration health project, whether or not constructed with funds authorized by this title, may be made for up to 100 per centum of the costs thereof for the two-year period beginning, for each component facility or service assisted under any such operating grant, on the first day that such facility or service is in operation as a part of the project, or the next three years of operation such grants shall not exceed 75 per centum of such costs. The Federal contributions may be provided entirely from funds appropriated to carry out this title or in combination with funds provided under other Federal grant-in-aid programs for the operation of health related facilities and the provision of health services, including title IV, parts A and B, and title XX of the Social Security Act. Notwithstanding any provision of the Social Security Act requiring assistance or services on a statewide basis, if a State provides assistance or services under such a program in any area of the region approached by the regional commission, such State shall be considered as meeting such requirement. Notwithstanding any provision of law limiting the Federal share in such other programs, funds appropriated to carry out this section may be used to increase Federal grants for operating components of a demonstration health project to the maximum percentage cost thereof authorized by this subsection. No grant for operation of a demonstration health project shall be made unless the facility is publicly owned, or owned by a public or private nonprofit organization, and is not operated for profit. No grants for operation of a demonstration health project shall be made after five years following the commencement of the initial grant for operation of the project. No such grants shall be made unless the Secretary of Health, Education, and Welfare is satisfied that the operation of the project will be conducted under efficient management practices designed to obviate operating deficits. A health-related facility constructed under title I of this Act may be a component of a demonstration health project eligible for operating grant assistance under this section.".

SEC. 206. Title V of such Act is further amended by inserting at the end thereof the following new section:

"EDUCATION DEMONSTRATION PROJECTS

"SEC. 517. (a) In order to assist in the expansion and improvement of educational opportunities and services for the people of the region, the Secretary of the Department of Health, Education, and Welfare is authorized to make grants for planning, construction, equipping, and operating vocational and technical educational projects which will serve to demonstrate areawide educational planning, services, and programs. Grants under this section shall be made solely out of funds specifically appropriated for the purposes of this title and shall not be taken into account in any computation of allotments among the States pursuant to any other law.

"(b) No grant for the construction or equipment of any component of a vocational and technical education demonstration project shall exceed 80 per centum of its costs.

"(c) Grants under this section for operation of components of vocational and technical educational demonstration projects, whether or not constructed by funds authorized by this title, may be made for up to 100 per centum of the costs thereof for the two-year period beginning on the first day that such component is in operation as a part of the project. For the next three years of operation, such grants shall not exceed 75 per centum of such costs. No grants for operation of vocational and technical education demonstration projects shall be made after five years following the commencement of the initial grant for operation of the project. An education-related facility constructed under title I of this Act may be a component of a vocational and technical education demonstration project eligible for operating grant assistance under this section.

"(d) No grant for expenses of planning necessary for the development and operation of a vocational and technical education demonstration project shall exceed 75 per centum of such expenses.

"(e) No grant for planning, construction, operation, or equipment of a vocational and technical education demonstration project shall be made unless the facility is publicly owned.

"(f) Any Federal contribution referred to in this section may be provided entirely from funds appropriated to carry out this section, or in combination with funds available under other Federal grant-in-aid programs providing assistance for education-related facilities or services. Notwithstanding any provision of law limiting the Federal share in such programs, funds appropriated to carry out this section may be used to increase such Federal share to the maximum percentage cost thereof authorized by the applicable paragraph of this subsection.".

SEC. 207. Each regional commission established pursuant to title V of the Public Works and Economic Development Act of 1965 shall submit to the Committees on Public Works of the Senate and House of Representatives within one hundred and twenty days after enactment of this Act the Regional Economic Development Plan required under section 503(a)(2) of the Public Works and Economic Development Act of 1965.

SEC. 208. (a) The second and third sentences of section 502(b) of the Public Works and Economic Development Act of 1965 are amended to read as follows: "Each State member shall be the Governor. The State members of the commission shall elect a cochairman of the commission from among their number for a term of not less than one year."

(b) Section 502(c) of the Public Works and Economic Development Act of 1965 is amended by adding at the end thereof the following new sentence: "No decision involving commission policy, approval of regional development plan, implementing investment programs, or allocating funds among the States may be made without a quorum of State members present.".

(c) The first sentence of section 502(d) of the Public Works and Economic Development Act of 1965 is amended to read as follows: "Each State member may have a single alternate, appointed by the Governor from among the members of the Governor's cabinet or the Governor's personal staff.".

(d) Such section 502(d) is further amended by adding at the end thereof the following new sentences: "A State alternate shall not be counted toward the establishment of a quorum of the commission in any instance in which a quorum of the State members is required to be present. No commission power or responsibility specified in the last sentence of subsection (c) of this section, nor the vote of any commission member, may be delegated to any person not a commission member or who is not entitled to vote in commission meetings.".

SEC. 209. (a) Section 501(a) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3181), as amended, is amended by inserting "and the Commonwealth of Puerto Rico and the Virgin Islands and the States of California and Texas" after "with the exception of Alaska and Hawaii,".

(b) Section 502(f) of such Act of 1965 (42 U.S.C. 3182) is amended by inserting after "Hawaii" the following "or the State of California or the State of Texas", and by striking out "either" and inserting in lieu thereof "any such".

(c) It is the intent of Congress that the Secretary of Commerce acting under authority of title V of the Public Works and Economic Development Act of 1965 should invite and encourage the formation of a regional commission for the region along the border with Mexico in the States of Texas, New Mexico, Arizona, and California.

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title and agree to the same.

ROBERT E. JONES,
JIM WRIGHT,
HAROLD T. JOHNSON,
ROBERT A. ROE,
W. H. HARSHA,
JOHN PAUL HAMMERSCHMIDT,
Managers on the Part of the House.

JENNINGS RANDOLPH,
EDMUND S. MUSKIE,
JOSEPH M. MONTOYA,
ROBERT MORGAN,
HOWARD H. BAKER,
ROBERT T. STAFFORD,
JAMES A. MCCLURE,
Managers on the Part of the Senate.

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 Senate to the bill (H.R. 4073) to extend the Appalachian Regional Development Act of 1965 for an additional two-fiscal-year period, 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 Senate amendment to the text of the bill struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I

Short title

House Bill

The short title of the House bill provides the legislation may be cited as the "Appalachian Regional Development Amendments of 1975."

Senate Amendment

Provides the Act may be cited as the "Regional Development Act of 1975".

Section 101 provides title I may be cited as the "Appalachian Regional Development Act Amendments of 1975."

Conference Substitute

Identical to Senate amendment as to the Act and to both House and Senate provisions as to the title.

Extension of commission expense authorization

House Bill

Section 2 extends the authorization for expenses of the Appalachian Regional Commission not to exceed $4 million for the period beginning July 1, 1975 and ending September 30, 1977. No more than $750,000 of this amount is to be available for expenses of Federal Cochairman, his alternate and his staff. In addition, $4 million is authorized for the two-fiscal-year period ending September 30, 1979. Of this amount, not more than $750,000 is to be available for expenses of the Federal Cochairman, his alternate, and his staff.

Senate Amendment

Section 106 of the bill increases to $4,600,000 the authorizations for the period July 1, 1975, to September 1, 1977, for the Commission's administrative expenses, sufficient to cover pay and other cost increases, and would include a limitation of $800,000 for expenses of the Federal Cochairman, his alternate, and staff.

Conference Substitute

Extends these authorizations for four years with $4,600,000 for the period July 1, 1975 through September 30, 1977 and $5,000,000 for the next two-fiscal-year period. Not more than $800,000 in the first period is available for the expenses of the Federal Cochairman, his alternate, and his staff and not more than $900,000 for that purpose in the second period.

OFFICE SPACE RENTAL

House Bill

Extends the authority of the Commission to rent office space through September 30, 1979.

Senate Amendment

Extends the authority of the Commission to rent office space through September 30, 1977.

Conference Substitute

Same as the House provision.

Highway system authorization extension

House Bill

Increases highway authorizations from $185,000,000 for fiscal year 1977 and $180,000,000 for fiscal year 1978 to $300,000,000 for the period beginning July 1, 1976, and ending September 30, 1977, and $300,000,000 per year for fiscal years 1978, 1979, and 1980.

Senate Amendment

Increases highway authorizations from $180,000,000 for fiscal year 1978 to $250,000,000 for that fiscal year and $300,000,000 for fiscal year 1979, $300,000,000 for fiscal year 1980, and $170,000,000 for fiscal year 1981.

Conference Substitute

Same as the Senate amendment.

Extension of authorizations for other programs

House Bill

Authorizes $340,000,000 for the period July 1, 1975 through September 30, 1977, and $300,000,000 for the two-fiscal-year period ending September 30, 1979 for programs other than the highway program.

Senate Amendment

Authorizing $267,000,000 for the two-fiscal-year period ending September 30, 1977 for programs other than the highway program.

Conference Substitute

Same as the House provision.

Termination date

House Bill

Extends the termination date of the Act (other than the highway program) to October 1, 1979.

Senate Amendment

Extends the termination date of the Act (other than the highway program) to October 1, 1977.

Conference substitute

Same as the House provision, except that the Appalachian Regional Commission is directed to submit to the Congress by July 1, 1977, a report on the progress being made in implementing section 2(b) of the Appalachian Regional Development Act, the energy-related entrprise edvelopmnt demonstration authority in section 302 of such Act, and other amendments made by this title.

Statement of purpose

House bill

No comparable provision.

Senate Amendment

Amends the statement of purpose of the Act recognizing current problems, particularly changes occurring in national energy requirements and production which affect the region, to establish the purpose of coordinating Federal, State, and local efforts toward (1) anticipating the effects on the region of alternative national energy policies and practices, (2) planning for the growth and change generated through the accelerated coal development so that it will further the social and environmental well-being of the region, and (3) implementing the activities of Federal, State and local governments in the region to better meet the special problems generated in the region through national energy policies.

Conference substitute

Same as the Senate amendment.

Commission structure and operation

House Bill

No comparable provision.

Senate Amendment

Makes the following amendments dealing with Commission membership, voting, and administrative powers: (1) Only the Governor may be a State member of the Commission; (2) Each State member may have a single alternate appointed by the Governor from among the members of his cabinet or his personal staff; (3) No decision involving Commission policy, approval of State, Regional or subregional Development Plans or implementing investment programs, any modification or revision of the Appalachian Regional Commission Code, or any allocation of funds among the States, may be made without a quorum of State members present; (4) A State alternate shall not be counted toward the establishment of a quorum of the Commission in any instance in which a quorum of the State members is required to be present; (5) The approval of project and grant proposals shall be a responsibility of the Commission exercised in accordance with section 303. No Commission powers or responsibilities, nor the vote of any Commission member, may be delegated to any person not a Commission member or who is not entitled to vote in Commission meetings; and (6) The term of the State Cochairman shall be at least one year.

Conference Substitute

Same as the Senate amendment.

Compensation

House Bill

No comparable provision.

Senate Amendment

The amendment increases the rating of the Federal Cochairman from level IV to level III of the Executive Schedule and the Alternate Federal Cochairman from GS–18 to level V on the Executive Schedule.

Conference Substitute

Same as the Senate amendment.

Commission functions

House Bill

No comparable provision.

Senate Amendment

The amendment specifies that the identification of subregional characteristics, needs and goals should be undertaken by the Commission.

Conference Substitute

Same as the Senate amendment.

Executive director

House Bill

No comparable provision.

Senate Amendment

The amendment reaffirms that the executive director is the chief administrative officer of the Commission staff.

Conference Substitute

Same as the Senate amendment.

Public participation

House Bill

No comparable provision.

Senate Amendment

Section 107 of the Act is amended to require that public participation be provided for, encouraged, and assisted by the Commission, States, and local development districts.

Conference Substitute

Same as the Senate amendment.

Highway mileage revision

House Bill

No comparable provision.

Senate Amendment

The Senate amendment would authorize a 200-mile increase in developmental highway mileage, with a corresponding 200-mile decrease in local access roads, to provide corridors for a sector of the region which was not part of the Appalachian program when the original corridors were established.

Conference Substitute

Same as the Senate amendment.

Demonstration health projects

House Bill

No comparable provision.

Senate Amendment

Makes the following amendments to section 202: (1) To allow acquisition of facilities previously operated for profit where that is the most cost-effective way of providing increased health services, (2) to clarify that Commission determination on need for a project is controlling once HEW establishes compatibility with basic HEW legislative authority, and (3) to add reference to title XX of the Social Security Act, enacted since the 1971 Appalachian Act amendments.

Conference Substitute

Same as the Senate amendment with the additional requirement that acquisition of facilities previously operated for profit requires a finding by the commission that but for this acquisition the health services would not otherwise be provided in the area served by the facility.

Mining area restoration

House Bill

No comparable provision.

Senate Amendment

Amends section 205 of the Act relating to mine area restoration to allow separate grants for planning or engineering projects; to make cover materials eligible project costs; to allow waivers wherever a State, local government or other nonprofit applicant agrees to indemnify the Federal Government, for all claims of loss or damage resulting from the use and occupation of lands for projects assisted under section 205.

It also amends section 205 to allow reclamation on lands owned by private nonprofit entities for public recreation, conservation, community facilities and public housing.

Conference Substitute

Same as the Senate amendment.

Housing

House Bill

No comparable provision.

Senate Amendment

Amends section 207 of the Act to expand the types of housing programs which may be assisted with "seed money" grants or loans to include any Federal or State low- or moderate-income housing assistance program; to include limited dividend or cooperative organizations as eligible for assistance; to allow up to 10 percent of the value of rehabilitated housing for off-site improvements for housing rehabilitation projects; and to authorize funds for States to make similar assistance to that under section 207.

Conference Substitute

Same as the Senate amendment.

Vocational and technical education projects

House Bill

No comparable provision.

Senate Amendment

Amends section 211 of the Act to broaden the scope of areawide demonstration projects from strictly vocational and technical education projects to include projects for career education, cooperative and recurrent education, and guidance and counseling.

A second amendment makes clear that the present requirement for public ownership does not preclude training and on-the-job employment activities away from facilities of a demonstration project if the project is administered by a public body.

Conference Substitute

Same as the Senate amendment.

Supplementary grants

House Bill

No comparable provision.

Senate Amendment

Amends section 214 of the Act to include additional Federal grant-in-aid programs as eligible for supplementation. These include titles I and IX of the Public Works and Economic Development Act of 1965, as amended.

Conference Substitute

Same as the Senate amendment.

Program implementation

House Bill

No comparable provision.

Senate Amendment

Amends section 223 of the Act to require a determination that the program or project authorized under the title has been determined to be not incompatible with the provisions and objectives of Federal laws before implementation of that program or project and to require the Commission to determine it meets the requirements of sections 224 and 225 of the Act, which determination is to be controlling and accepted by Federal agencies.

Conference Substitute

Same as the provisions of the Senate amendment.

The Congress designed the Appalachian Regional Development Act of 1965 so that in many of the programs under the Act (such as those authorized in sections 202, 204, 205, 207, 211, and 214), the supplemental or special basic grant assistance approved by the Commission is subsequently extended to the grantee through the framework of Federal grant-in-aid programs administered by Federal departments and agencies. Section 116 of the Conference Report provides further clarification that the responsible Federal official shall review such grants only to determine that they are not incompatible with the provisions and objectives of the framework laws which he administers. In making this modification, however, it is intended that the Federal official administering the framework program through which the Appalachian Act assistance is provided, shall continue to discharge responsibility for assuring that such grants are not incompatible with other Federal laws such as, for example, the National Environmental Policy Act. Thus, the conferees intend, in such cases, that the department or agency responsible for the basic program would make such reviews and assessments as might be required by the National Environmental Policy Act.

Program criteria

House Bill

No comparable provision.

Senate Amendment

Amends section 224 of the Act by adding a new subsection which reemphasizes that programs and projects may be funded under this Act only if the Commission has determined that the funds will not diminish the level of effort by the State in its Appalachian counties in order to substitute funds authorized by this Act.

Conference Substitute

Same as the Senate amendment.

Planning process

House Bill

No comparable provision.

Senate Amendment

Amends the Act to add a new section 225 requiring a State Development Plan. These Plans are to (a) describe the State organization for Appalachian development planning, including the procedures established for the participation of local development districts in the process and the means for relating the process to State planning and budgeting and coordinating it with other Federal, State and local programs; (b) set forth the goals, objectives, and priorities of the State for the region; and (c) describe the development program for achieving the goals and objectives, including funding sources and recommendations for specific projects. Plans would be revised annually, and an implementing investment program would be submitted by each State.

Conference Substitute

Same as the Senate amendment.

Administrative expense grants and research and demonstrations

House Bill

No comparable provision.

Senate Amendment

Amends section 302 of the Act to provide assistance in preparing State development plans as well as specifying that grants for administrative expenses of local development districts may include costs for development of areawide plans or action programs and technical assistance activities.

It also authorizes a new, limited demonstration program in the area of energy-related enterprise development in subsection (b) of section 302. For purposes of the new demonstration authority, the restrictions in section 224(b) (2), (3) and (4) are waived which preclude the use of Commission funds for financing industrial facilities or working capital, or the cost of facilities for the generation, transmission, or distribution of electric energy or gas.

Another provision directs the Commission to conduct a study and report on the status of Appalachian migrants in the destinations to which they have migrated, current migration patterns and implications, and the impact which the Commission program has had, and the potential for such impact, on out-migration and the welfare of Appalachian migrants. In carrying out this study, the Commission may undertake pilot projects and demonstrations within the region. A third provision also directs a study of physical hazards which are constraints on land use (with strong emphasis on mudslides, landslides, sink holes and subsidence) and the risks associated with these hazards. The study is to provide identification of high-risk hazard areas throughout the Appalachian Region.

Conference Substitute

Same as the Senate amendment with the additional authorization to the Commission to carry out demonstration projects, at not to exceed $2,500,000 per fiscal year, for development and stimulation of the indigenous arts and crafts of the region.

Approval of development plan, investment program, and projects

House Bill

No comparable provision.

Senate Amendment

The amendment rewrites section 303 of the Act to provide that State Development Plans, the Regional Development Plan, and implementing investment programs must be approved by the Commission as in accordance with the Regional Development Planning Process. Once a State Development Plan

is approved, the submission and approval of a project by a State, when joined by an affirmative vote of the Federal Cochairman for such project, shall be deemed to satisfy the requirements for affirmative votes for decisions in section 101(b).

Conference Substitute

Same as the Senate amendment.

Repeal

House Bill

No comparable provision.

Senate Amendment

The amendment repeals section 104 of the Public Works and Economic Development Act of 1965, which now prevents cooperative funding of Appalachian Regional Commission and Economic Development Administration projects.

Conference Substitute

Same as the Senate amendment.

Limitations

Conference Substitute

Contains a provision limiting new or increased authority to enter into contracts under section 201 of the Appalachian Regional Development Act to only such amounts as are provided in appropriation Acts.

TITLE II

Short title

House Bill

No comparable provision.

Senate Amendment

Provides Title II may be cited as the "Regional Action Planning Commission Improvement Act of 1975".

Conference Substitute

Same as the Senate amendment.

Authorizations for commissions

House Bill

No comparable provision.

Senate Amendment

Amends Section 509(d) of the Public Works and Economic Development Act (hereinafter stated as Act) to increase the authorization to carry out the Title for the fiscal year 1976 from 150 to 200 million dollars and 50 million dollars for the transition quarter ending September 30, 1976. It authorizes 250 million dollars for the fiscal year 1977. After deducting the amounts required by the Secretary to carry out the administration and technical assistance, the Secretary is to apportion the remainder of sums appropriated to the existing seven Commissions based on the following formula:

14 percent on the basis of equality of the Seven Regional Commissions.

14 percent on land area.

28 percent on the basis of population.

44 percent on the basis of per capita income (weighted inversely).

All funds are to be apportioned prior to the end of the fiscal year.

Conference Substitute

Same as the Senate amendment except the formula for allocating appropriated funds to the regions is deleted. Funds authorized by the Senate amendment are to be allocated to the regional commissions which have been established for more than two fiscal years. An additional $5,000,000 for fiscal year 1976, $1,250,000 for the transition period, and $5,000,000 for fiscal year 1977 is authorized for the management and authorized activities of new commissions that may be established by the Secretary, for their first two fiscal years.

For fiscal year 1976 funds were allocated to the regional commissions in accordance with the formula which was contained in the Senate amendment. It is the intent of the conferees that the Secretary of Commerce utilize the same formula for fiscal year 1977 for the existing regional commissions. The Senate Committee on Public Works and the House Committee on Public Works and Transportation will evaluate the formula with the goal of devising a permanent formula for future fiscal years.

Regional transportation demonstration projects

House Bill

No comparable provision.

Senate Amendment

Amends section 513 of the Act to authorize each Commission to conduct studies and investigations of the transportation needs of the region. Each Commission can make grants for planning, construction, purchase of equipment and operation for transportation demonstration projects. Planning grants may be up to 100% of costs. Grants for construction, equipment and operation are authorized for up to 80% of costs. Not more than 5 million dollars of the funds apportioned to each region can be expended in any one fiscal year to carry out this section.

Conference Substitute

Same as the Senate amendment.

The new authorities contained in sections 513, 515, 516, and 517 of the Conference substitute are intended to provide each commission additional tools to carry out its mission of economic development.

Energy demonstration projects and programs

House Bill

No comparable provision.

Senate Amendment

Adds a new section 515 to the Act to authorize grants for energy related demonstration projects and programs. Not more than 5 million dollars of the apportioned funds to each Region Commission may be expended in any fiscal year for the purpose of carrying out this section.

Conference Substitute

Same as Senate amendment except that, in addition, it authorizes each Commission to carry out demonstration projects, not to exceed $2,500,000 per Commission per fiscal year, for the development and stimulation of the indigenous arts and crafts of the region.

Health and nutrition demonstration projects

House Bill

No comparable provision.

Senate Amendment

Adds a new section 516 to the Act which authorizes grants for multicounty demonstration health projects. Grants may be used for planning, construction, equipment, and operation or projects similar to those authorized by the Appalachian Region Development Act. Construction and equipment grants may not exceed 80% of cost. Grants for the operation may be up to 100% of cost for the first two years and 75% of cost for next three years of operation.

Conference Substitute

Same as the Senate amendment.

Education demonstration projects

House Bill

No comparable provision.

Senate Amendment

Adds a new section 517 to the Act to authorize grants for planning, construction, equipping and operating vocational and technical education projects which will serve to demonstrate area-wide educational planning services and programs. Construction and equipment projects may not exceed 80% of cost. Grants for operation may be up to 100% of cost for the first two years and 75% of cost for the next three years. A planning grant for the development of a demonstration project may not exceed 75% of such expenses. All projects must be for publicly owned facilities. Funds for projects under this section may be combined with the funds available under other Federal grant-in-aid programs.

Conference Substitute

Same as the Senate amendment.

Review of regional development plans

House Bill

No comparable provision.

Senate Amendment

Each Regional Commission must submit to each Committee on Public Works within 120 days after enactment of this Act their regional development plan. The Committee must study and review the plans to determine their conformity to the purposes of the Act.

Conference Substitute

Same as the Senate amendment except that the last sentence of the section requiring Committee study and review of plans was deleted. A review of such plans by the Committees will form the basis for additional legislative changes tailored to the needs of particular regions.

Structure and operation of commissions

Conference Substitute

The conferees agreed to amend section 502 of the Act to make applicable similar changes in the commission structure and operation of the Title V Regional Commissions as were made to the Appalachian Commission by amendments to the Appalachian Regional Development Act. The amendment makes the following changes dealing with commission membership, voting, and administrative powers: (1) Only the Governor may be a State member of the Commission; (2) Each State member may have a single alternate appointed by the Governor from among the members of his cabinet or his personal staff; (3) No decision involving Commission policy, approval of the Regional Development Plan or implementing investment programs, or any allocation of funds among the States, may be made without a quorum of State members present, (4) A State alternate shall not be counted toward the establishment of a quorum of the Commission in any instance in which a quorum of the State members is required to be present; (5) No Commission powers or responsibilities, nor the vote of any Commission member, may be delegated to any person not a Commission member or who is not entitled to vote in Commission meetings; and (6) The term of the State Cochairman shall be at least one year.

Designation of regional commissions

Conference Substitute

The conferees agreed to amend section 501 of the Act to add California, Texas, the Commonwealth of Puerto Rico and the Virgin Islands as exceptions to the requirement that a region must be within contiguous States to be designated as an "economic development region".

Section 502 is amended to permit the Secretary to designate single State Commissions for the State of California or the State of Texas if they otherwise meet the requirements for an economic development region. Congressional intent is also expressed that the Secretary encourage formation of a regional commission along the Mexican border in the States of Texas, New Mexico, Arizona and California.

These border areas in both the United States and Mexico historically have suffered severe economic depression. By most statistical accounting, all indices of economic deprivation — unemployment — illiteracy — low median family income—fully qualify this region as being more economically depressed than other areas where regional commissions have been established.

Presidential review

House Bill

No comparable provision.

Senate Amendment

Requires the President to review the structure and authorities of Title V Regional Planning Commissions and then report to Congress his recommendations concerning the Commissions not later than six months after the enactment of this Act.

Conference Substitute

Since both Committees will be considering further extensions and amendments to the Act within the next few months, the conferees agreed to delete this provision and reconsider it at a later time.

Title of the bill

Conference Substitute

The conference substitute adopts the amendment of the Senate to the title of the bill since it more accurately reflects the text as proposed in the conference substitute.

ROBERT E. JONES,
JIM WRIGHT,
HAROLD T. JOHNSON,
ROBERT A. ROE,
W. H. HARSHA,
JOHN PAUL HAMMERSCHMIDT,
Managers on the Part of the House.
JENNINGS RANDOLPH,
EDMUND S. MUSKIE,
JOSEPH M. MONTOYA,
ROBERT MORGAN,
HOWARD H. BAKER,
ROBERT T. STAFFORD,
JAMES A. MCCLURE,
Managers on the Part of the Senate.

MAKING SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 1976

Mr. MAHON. Mr. Speaker, pursuant to the unanimous-consent request granted Friday, December 12, 1975, I call up the conference report on the bill (H.R. 10647) making supplemental appropriations for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the statement.

(For conference report and statement see proceedings of the House of December 12, 1975.)

Mr. MAHON (during the reading). Mr. Speaker, I ask unanimous consent that the statement be considered as read.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER. The gentleman from Texas (Mr. MAHON) is recognized for 30 minutes, and the gentleman from Michigan (Mr. CEDERBERG) is recognized for 30 minutes.

The Chair recognizes the gentleman from Texas (Mr. MAHON).

Mr. MAHON. Mr. Speaker, from reports in the media these days it appears that big government and bureaucracy are under attack. There is a great deal of interest in what can be done about big government. Without doubt much needs to be done. I suspect that most of the Members of the House and most of the Members of the other body, and most of the citizens of the country are opposed to big government.

My attention was called this morning to a recent issue of Newsweek magazine. There, Uncle Sam is portrayed as fat and unsightly instead of tall, lean, and alert. It is very upsetting to see Uncle Sam portrayed in this manner.

There is cause to wonder if we really are opposed to big government, and if we are going to do anything about it. These matters we should ponder as we give consideration to the pending conference report on this appropriation bill.

Mr. Speaker, we bring before the House today the conference report on the first general supplemental bill for fiscal 1976. The conference agreement being presented today represents a compromise total of $10,298,883,117 of new budget authority for fiscal 1976 and $133,813,695 for the transition period. It also includes $500,000,000 for insured farm home loans, $142,500,000 for restoration of Federal Housing Administration losses, $364,100,100 for trust fund transfers, and $443,000,000 for liquidation of contract authority.

The 1976 budget authority is $1,004,677,260 below the budget request of the President; $35,464,660 below the Senate bill and $2,478,576,916 above the House bill. Of course, that latter amount includes $2,301,000,000 added by the Senate for the relief of New York City.

Major items included in the conference agreement are:

The amount of $2,301,000,000 for the New York City Seasonal Financing Fund; $1,750,000,000 for the food stamp program; $5,000,000,000 for advances to the unemployment trust fund; $364,100,000 for grants to States for unemployment insurance and employment services; $97,100,000 for benefit payments under the Federal Employee's Compensation Act.

The amount of $437,013,000 for the Health Services Administration; $56,500,000 for mental health programs; $85,000,000 for nurse training programs of the Health Resources Administration; $37,125,000 for the Development Disabilities Services and Facilities Construction Act; $245,537,000 for facilities and equipment for the Federal Aviation Administration; $26,432,000 for watershed and flood prevention operations; $60,000,000 for the special milk program.

The sum of $35,000,000 for support of the U.N. Middle East peacekeeping force; $500,000,000 for insured rural housing loan authority for the Farmers Home Administration; $300,000,000 for liquidation of contract authority for the urban mass transportation fund; $142,500,000 for restoration of losses to the special risk insurance fund and general insurance fund, the Federal Housing Administration; 193 employees for the Congressional Budget Office.

Mr. Speaker, that covers the major points of the bill. Ten of the 13 subcommittees of the Appropriations Committee were represented in the conference. The chairmen of those subcommittees and the ranking minority members and others on the committee are knowledgeable about the bill before us and are able to respond to questions which may be propounded.

Mr. Speaker, 88 percent or $9,050,000,000 of the funds in the bill is for three items that were received after action was completed on the regular 1976 bills—$1,750,000,000 for food stamps, $5,000,000,000 for unemployment compensation, and $2,301,000,000 for relief of New York City. I urge adoption of the conference report by the House.

At this point I offer a summary table by chapter showing the conference agreement compared with the budget estimate and the action on the bill by the House and the Senate:

SUMMARY OF CONFERENCE ACTION ON H.R. 10647—SUPPLEMENTAL APPROPRIATION ACT, 1976

Subcommittee	New BA estimates 1976/Transition	New BA House 1976/Transition	New BA Senate 1976/Transition	New BA conference 1976/Transition	Conference compared with estimates	Conference compared with House bill	Conference compared with Senate bill
Agriculture:							
Fiscal year 1976	3,137,095,000	1,771,702,000	1,840,532,000	1,838,482,000	−1,298,613,000	66,780,000	−2,050,00
Transition period	788,883,000				−788,883,000		
Insured loans			(500,000,000)	(500,000,000)	(500,000,000)	(500,000,000)	
Increase in limitation			(10,076,000)	(5,013,000)	(5,013,000)	(5,013,000)	(−5,063,
Transition period			(2,573,000)	(1,287,000)	(1,287,000)	(1,287,000)	(−1,286,
Defense (language only)							
District of Columbia: District of Columbia funds	(59,000)		(59,000)		(−59,000)		
HUD-Independent agencies:							
Fiscal year 1976	2,301,000,000		2,301,000,000	2,301,000,000		2,301,000,000	
Transition period	315,000		315,000	315,000		315,000	
Restoration of losses	(463,672,000)		(142,500,000)	(142,500,000)	(−321,172,000)	(142,500,000)	
Labor, and Health, Education, and Welfare:							
Fiscal year 1976	5,433,207,000	5,717,055,000	5,756,270,000	5,737,160,000	303,953,000	20,105,000	−19,110,00
Transition period	90,550,000	115,756,000	140,581,000	118,50,000	27,500,000	2,294,000	−22,531,00
Trust fund transfers	(364,100,000)	(364,100,000)	(364,100,000)	(3640,100,000)			
Legislative:							
Fiscal year 1974	300,000	300,000	300,000	300,000			
Fiscal year 1975	350,000		350,000	350,000		350,000	
Fiscal year 1976	50,026,868	39,823,308	44,987,268	45,623,608	−4,403,260	5,800,300	636,30
Transition period	12,465,360	5,667,795	7,517,610	7,301,695	−5,163,665	1,633,900	−215000

Subcommittee	New BA estimates 1976/Transition	New BA House 1976/Transition	New BA Senate 1976/Transition	New BA conference 1976/Transition	Conference compared with estimates	Conference compared with House bill	Conference compared with Senate bill
State, Justice, Commerce, and Juidciary:							
Fiscal year 1976	54,662,000	6,537,000	71,411,000	65,081,000	10,419,000	58,544,000	−6,330,000
Transition period	1,975,000	1,612,000	1,763,000	1,763,000	−212,000	151,000	
Transportation:							
Fiscal year 1976	250,000,000	245,537,000	245,537,000	245,537,000	−4,463,000		
Liquidation of contract authorization: Fiscal year 1976	(350,000,000)	(50,000,000)	(350,000,000)	(350,000,000)		(300,000,000)	
Transition period	(93,000,000)	(43,000,000)	(93,000,000)	(93,000,000)		(50,000,000)	
Treasury, Postal Service, and General Government:							
Fiscal year 1976	34,097,500	14,705,000	24,238,500	22,527,500	−11,570,000	7,822,500	−1,711,000
Transition period	10,221,000	4,619,000	5,834,000	6,384,000	−3,837,000	1,765,000	550,000
Transfer: Fiscal year 1976	(554,000)	( )	(554,000)	(500,000)	(−54,000)	(500,000)	(−54,000)
Transition period	(131,000)	( )	(131,000)	(120,000)	(−11,000)	(120,000)	(−11,000)
Claims and judgments: Fiscal year 1976	43,472,009	24,946,893	43,472,009	43,472,009		18,525,116	
Interior and related agencies: Fiscal year 1976			6,900,000				−6,900,000
Totals:							
Fiscal year 1974	300,000	300,000	300,000	300,000			
Fiscal year 1975	350,000		350,000	350,000		350,000	
Fiscal year 1976	11,303,560,377	7,820,306,201	10,334,347,777	10,298,883,117	−1,004,677,260	2,478,576,916	−35,464,660
Transition period	904,409,360	127,654,795	156,010,610	133,813,695	−770,595,665	6,158,900	−22,196,915
Insured loans	( )	( )	(500,000,000)	(500,000,000)	(500,000,000)	(500,000,000)	
Increase in limitations	( )	( )	(10,076,000)	(5,013,000)	(5,013,000)	(5,013,000)	(−5,063,000)
Transition period	( )	( )	(2,573,000)	(1,287,000)	(1,287,000)	(1,287,000)	(−1,286,000)
Restoration of losses	(463,672,000)	( )	(142,500,000)	(142,500,000)	(−321,172,000)	(142,500,000)	( )
Trust fund transfers	(364,100,000)	(364,100,000)	(364,100,000)	(364,100,000)	( )	( )	( )
Liquidation of contract authorization: Fiscal year 1976	(350,000,000)	(50,000,000)	(350,000,000)	(350,000,000)	( )	(300,000,000)	( )
Transition period	(93,000,000)	(43,000,000)	(93,000,000)	(93,000,000)	( )	(50,000,000)	( )
Transfer: Fiscal year 1976	(554,000)	( )	(554,000)	(500,000)	(−54,000)	(500,000)	(−54,000)
Transition period	(131,000)	( )	(131,000)	(120,000)	(−11,000)	(120,000)	(−11,000)
District of Columbia Funds	(59,000)	( )	(59,000)	( )	(−59,000)	( )	(−59,000)

Mr. FLOOD. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Pennsylvania (Mr. FLOOD).

Mr. FLOOD. Mr. Speaker, chapter III of H.R. 10647, making supplemental appropriations for fiscal year 1976, as recommended by the Committee of Conference, contains appropriations totalling $5,737,160,000 for the Departments of Labor, and Health, Education, and Welfare and the Community Services Administration for the current fiscal year, and $118,050,000 for the transition period ending September 30, 1976.

The largest single item in chapter III is an appropriation of $5,000,000,000 for advances to the unemployment trust fund and other funds. This appropriation is needed to make loans to States which do not have sufficient funds in their accounts in the unemployment trust fund to meet anticipated unemployment compensation benefit payments, and also to make repayable advances to meet the Federal share of extended benefit payments and emergency unemployment compensation payments. The need for this appropriation is, of course, attributable to the continued high rates of unemployment in many parts of the Nation. Chapter III also includes $97,100,000 for the Department of Labor to provide additional funds for benefit payments under the Federal Employees Compensation Act.

The conference agreement includes appropriations for the Department of Health, Education, and Welfare amounting to $630,521,000 for fiscal year 1976, and $105,185,000 for the transition period. Most of these funds are for carrying out various health services and nurse training programs authorized by Public Law 94–63, which was enacted on July 29, 1975. The programs authorized in Public Law 94–63 account for a total of $591,613,000, which is over $300,000,000 more than the President requested for these programs. You will recall that the President's budget proposed termination or phase-out of many health services and nurse training programs, and that Public Law 94–63 was enacted in spite of a Presidential veto. The amounts in this bill for health services and nurse training programs represent an increase of about $60 million over the comparable fiscal year 1975 appropriations.

Since there is so much interest in the programs funded in chapter III of this bill, I shall insert at this point in the RECORD a detailed table showing the amounts included in the conference agreement for each program, together with the comparable appropriations for fiscal year 1975, the budget request for 1976, and the amounts carried in the House and Senate versions of the supplemental appropriation bill:

SUPPLEMENTAL APPROPRIATION BILL, 1976 (H.R. 10647)

CHAPTER III—DEPARTMENTS OF LABOR, AND HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES

	1975 appropriation	1976 regular budget request	1976 supplemental request	House	Senate	Conference agreement
DEPARTMENT OF LABOR						
Manpower Administration						
Advances to the unemployment trust fund and other funds	$5,750,000,000		$5,000,000,000	$5,000,000,000	$5,000,000,000	$5,000,000,000
Grants to States for unemployment insurance and employment services	(1,242,300,000)	($1,069,000,000)	(364,100,000)	(364,100,000)	(364,100,000)	(364,100,000)
Labor-Management Services Administration						
Salaries and expenses	36,845,000	42,000,000	4,618,000	3,910,000	3,910,000	3,910,000
Transition period		10,047,000	1,077,000	1,077,000	1,077,000	1,077,000
Departmental Management						
Salaries and expenses	30,339,000	33,242,000	305,000	203,000	203,000	203,000
Transition period		7,781,000	154,000	154,000	154,000	154,000
Employment Standards Administration						
Salaries and expenses	76,116,000	79,715,000	3,340,000	2,926,000	2,926,000	2,926,000
Transition period		19,929,000	834,000	834,000	834,000	834,000
Special benefits	165,000,000	201,000,000	97,100,000	97,100,000	97,100,000	97,100,000
Transition period		70,000,000	10,800,000	10,800,000	10,800,000	10,800,000
Total Department of Labor	6,058,300,000	355,957,000	5,105,363,000	5,104,139,000	5,104,139,000	5,104,139,000
Transition period		107,757,000	12,865,000	12,865,000	12,865,000	12,865,000

	1975 appropriation	1976 regular budget request	1976 supplemental request	House	Senate	Conference agreement
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE*						
Health Services Administration						
Health services						
Health revenue sharing (sec. 314(d))	$90,000,000			$90,000,000	$90,000,000	$90,000,000
Hypertension programs					7,500,000	3,750,000
Family planning	100,615,000		$79,435,000	100,615,000	100,615,000	100,615,000
Migrant health centers	23,750,000		19,200,000	23,750,000	25,000,000	25,000,000
Community health centers	196,648,000		155,190,000	196,648,000	196,648,000	196,648,000
National Health Service Corps	[1] 17,131,000		12,529,000	15,000,000	15,000,000	15,000,000
Home health services				3,000,000	3,000,000	3,000,000
Hemophilia programs				3,000,000	3,000,000	3,000,000
Total, Health Services	428,144,000		266,354,000	432,013,000	440,763,000	437,013,000
Transition period			65,017,000	87,517,000	112,000,000	89,662,000
Center for Disease Control						
Preventive health services						
Diseases borne by rodents (sec. 317(d))	13,100,000		5,410,000	10,410,000	13,710,000	13,100,000
Alcohol, Drug Abuse and Mental Health Administration						
Community Mental Health Centers:						
Planning community mental health centers (sec. 202(d))				1,500,000	1,500,000	1,500,000
Initial operation (sec. 203(d))				18,000,000	30,000,000	24,000,000
Consultation and educational services (sec. 204(c))				3,000,000	5,000,000	4,000,000
Conversion (sec. 205(c))				20,000,000	20,000,000	20,000,000
Financial distress (sec. 213)				6,000,000	4,000,000	4,000,000
Rape prevention and control (sec. 231)				2,000,000	4,000,000	3,000,000
Total, ADAMHA				50,500,000	64,500,000	56,500,000
Health Resources Administration						
Nursing:						
Institutional assistance:						
Capitation grants (sec. 810)	34,343,000			44,000,000	44,000,000	44,000,000
Financial distress grants (sec. 815)	1,084,000					
Special projects (sec. 820(d))	22,482,000		15,000,000	15,000,000	15,000,000	15,000,000
Advanced training project grants (sec. 821 (b))			1,000,000	1,000,000	3,000,000	2,000,000
Nurse practitioners (sec. 822 (d))			2,000,000	2,000,000	4,000,000	3,000,000
Student assistance:						
General scholarships (sec. 845)	6,000,000			2,000,000	2,000,000	[3] 2,000,000
Traineeships (sec. 830)	13,016,000			13,000,000	13,000,000	13,000,000
Student loans	22,800,000				8,000,000	[3] 6,000,000
Total, Health Resources Administration	99,725,000		18,000,000	77,000,000	89,000,000	85,000,000
Transition period			4,000,000	6,000,000	6,000,000	6,000,000
National Institute of Education						
National Institute of Education	70,000,000				3,250,000	([3])
Assistant Secretary for Human Development						
Human development						
White House Conference on the Handicapped	25,000		2,955,000	2,955,000	1,370,000	1,370,000
Grants to the developmentally disabled:						
State grants	30,875,000		30,875,000	32,875,000	32,875,000	32,875,000
University affiliated facilities	4,250,000		4,250,000	4,250,000	4,250,000	4,250,000
Total, Human Development	35,150,000		38,080,000	40,080,000	38,495,000	38,495,000
Transition period			8,668,000	9,168,000	9,510,000	9,317,000
Departmental Management						
General departmental management						
Office of Investigations and Security				413,000	413,000	413,000
Transition period				206,000	206,000	206,000
Total, Department of Health, Education, and Welfare	646,119,000		327,844,000	610,416,000	650,131,000	630,521,000
Transition period			77,685,000	102,891,000	127,516,000	105,185,000
RELATED AGENCIES*						
Community Services Administration						
Community services program	492,400,000			2,500,000	2,000,000	2,500,000
Total, related agencies	492,400,000			2,500,000	2,000,000	[4] 2,500,000
Total, chapter III:						
New budget (obligational) authority	7,196,819,000		5,433,207,000	5,717,055,000	5,756,270,000	5,737,160,000
Transition period			90,550,000	115,756,000	140,581,000	118,050,000
Trust fund transfers	(1,242,300,000)		(364,100,000)	(364,100,000)	(364,100,000)	(364,100,000)

*Figures in 1976 regular budget request column not included in these sections.
[1] Includes $5,000,000 appropriated in 1975 and made available for obligation through June 30, 1976.
[2] The 1976 Labor-HEW appropriations bill contains an additional $4,000,000 for scholarships and an additional $15,000,000 for loans.
[3] The 1976 education division and related agencies appropriation (Public Law 94-94) contains $70,000,000 for the National Institute of Education.
[4] The 1976 Labor-HEW appropriations bill contains $494,652,000 for Community Services Administration.

Mr. MAHON. Mr. Speaker, I reserve the balance of my time.

Mr. CEDERBERG. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the chairman of the Committee on Appropriations said, we are looking here at a very substantial supplemental bill.

I think there is one thing we ought to point out. Sometimes figures do not really mean what they say. If we look at page 21 of the conference report, it appears that the conference report is $1 billion under the President's budget estimates. That figure is very misleading. As an example, the conference report is about $1,387,095,000, less than the President requested for food stamps. The request was $3,137,095,000 and the conference report agreed to $1,750 million.

Well, that is a questionable reduction, because as a matter of fact, as I understand, the administration said we probably can get by with $1,750 million, but they did not formally revise their budget estimate.

Under the Federal Housing Administration, under the title Reimbursement to Special Risk and General Insurance Fund, the budget request was $463,672,000, and the conference agreed to $142,500,000, which is a reduction of $321,172,000. It means that they will be back to replenish that fund later on; but it does make it look a little better in this conference report.

I think it is time we stopped kidding the public. Without these two so-called paper cuts, we would be looking at a conference report that is $703,589,740 over and above the request of the President.

Of course, if we look at the total HEW chapter, that chapter alone is $303,973,000 over and above what the President requested in his submissions to the Committees on Appropriations.

This conference report, as the distinguished chairman pointed out, is another indication that we are going down the road to substantially larger budget figures than we have ever had before. As a result of these budget figures, we wind up with substantially larger deficits, when we consider that we in the House passed conference reports and the Budget Committee just last week indicated that this figure is going to have a deficit of some $74 billion plus. My prediction is that it will be closer to $80 billion, the largest deficit that we have had in any one fiscal year, I believe, in the history of the country.

I believe the time has come to be honest with the American people and just tell them we can no longer go along having these kinds of deficits year after year.

We closed June 30 last year with a budget deficit of $45 billion. We will close the current fiscal year with a budget deficit of around say $75 or $80 billion. We will then look at the figures for the next fiscal year, when we come back in January. Even with increased activity in the economy, I see no way that we can possibly have less than a $50 billion deficit. When we add all these together, we are looking at something very close to $175 billion to $180 billion worth of deficits in 3 fiscal years. Financing these deficits on the open market these days means that Uncle Sam is pre-empting a lot of money in the market that should be and could be used in the private sector. As a result, it is no wonder that we have interest rates going so high. It is no wonder that the inflationary impact we have been having over the past number of years is still with us. I predict that unless we put our fiscal house in order, it will still be with us.

Mr. Speaker, I do not want to take any more time. I know everyone has had an opportunity to look at this conference report and everyone will have to make up his own mind.

Mr. BAUMAN. Mr. Speaker, I would like to ask a question of the distinguished gentleman from Texas (Mr. MAHON) or possibly to the gentleman from Texas (Mr. CASEY), since it is within his subcommittee's jurdisdiction.

This particular conference report comes back with a proposed amendment 44, which will be offered as an amendment in the House once the conference report is acted upon. The language is on page 14. In effect, it sets a limit of 193 employees for the Congressional Budget Office, and it goes on to say that it waives section 5, title 41, United States Code.

Title 41, section 5 of the United States Code allows for the hiring of personal services, when they are required to be performed personally by a contractor, and for service of a technical or professional nature.

It seems to me that if the conferees had truly concluded that 193 employees for the CBO was the limit, they would not have waived a section of the law that, in effect, allows CBO to go ahead and contract for services above 193. I would like to have the assurances from the appropriate gentleman from Texas that the total CBO ceiling on employees is 193, whether they be staff employees, contractual employees or from whatever source of employment.

Mr. MAHON. Mr. Speaker, will the gentleman yield?

Mr. CEDERBERG. I yield to the gentleman from Texas.

Mr. MAHON. There was considerable controversy with respect to this matter in the conference. The House held firmly to the 193 employee figure, and I would like to yield for further comment to the gentleman from Texas (Mr. CASEY).

Mr. CEDERBERG. I yield to the gentleman from Texas (Mr. CASEY).

Mr. CASEY. I thank the gentleman for yielding to me.

One hundred ninety-three is a firm figure. The Senate provided funds for 228 positions, but did not include a limitation, so this is one amendment which is required. I would say more time was spent on this amendment than on any other, because we held firm. We felt that this office was growing fast enough. We felt that this was a new operation and we wanted to make sure that the direction in which it was going would not result in a proliferation of other services we already have such as the Congressional Research Service which we have built up in recent years; the Office of Technology Assessment which we set up a couple of years ago; and the General Accounting Office.

The competitive bidding provision, which we agreed to is not to add more people on the staff. I assure the gentleman that we would not have allowed that provision if that were the case, because we on the House side held firm—and, mind you, there was some bitter feeling on this item and some of our best friends may not be our best friends any longer because we held firm and we disagreed with the Senate conferees in this regard. They were willing to settle for, "Just give us anything," and we said, "No, 193 is the limit and that is it."

Mr. BAUMAN. If the gentleman from Michigan will yield further, I am safe in my understanding of the conferees' intention that, regardless of the type of employment, 193 is the absolute maximum of any type of employees?

Mr. CASEY. That is correct. That is my understanding and that is what we have insisted on, and that is what is in the bill as agreed to in conference.

Mr. BAUMAN. I thank the gentleman.

Mr. CEDERBERG. Mr. Speaker, that certainly is my understanding, and there is a question here involved with computers that may be necessary.

Mr. CASEY. That is the reason for allowing this provision, it is for computer services, and not for staff people. They can go out without the requirement for competitive bidding, and this will facilitate their computer operations. Frankly, we hope that before another year or so they will not even have to contract this work out, because we will have developed our own computer operation on the Hill which they can use.

Mr. MAHON. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma (Mr. STEED), chairman of the subcommittee.

Mr. STEED. Mr. Speaker, I take this time to call the attention of the House to a matter that received considerable interest on the floor when the supplemental bill came up. It is the matter contained on page 36 of the bill and dealt with on page 18 of the conference report dealing with the Bureau of Alcohol, Tobacco, and Firearms and their request to start a new program.

I think that, because of interest shown, I should make these comments.

The conference agreement includes $5,500,000 for fiscal year 1976 and $1,375,000 for the transition period for salaries and expenses of the Bureau of Alcohol, Tobacco, and Firearms of the Treasury Department to implement a test of concentrated urban enforcement—CUE—of gun control laws.

These funds will enable the Bureau to employ up to 250 additional special agents and support personnel to conduct the test in three geographically separated cities, one of the cities being Washington, D.C.

Mr. Speaker, I think the people down at the Treasury feel that this gives them a very good test program, and they are very happy with what the conference has agreed upon.

Mr. CEDERBERG. Mr. Speaker, I yield 10 minutes to the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr. Speaker, and Members of the House, touching upon a few particulars in this conference report, there is included an item of $1,750,000,000 for the food stamps, which is $2,175,978,000 below the budget request, counting the transition period. This is based, according to both the House and Senate committee report, on a reevaluation of estimates and on the development of regulations to reform the program by the Department of Agriculture. Our own committee report states that at least $1,000,000,000 could be saved through such a revision of regulations.

Does this indicate now that the Members of both bodies are really committing themselves to a significant overhaul and

tightening up of the program by the Department? The question has to be asked because we all remember what happened earlier this year when the Department proposed a change, and only 38 Members of this House voted to sustain that kind of a change. So now there will be adequate notice given that when the Department, if they follow these committee reports to the letter to bear down and tighten up, that they ought not to be overruled and vetoed by this House and the other body, like we did earlier this year when the Department attempted to make some changes. If there is no commitment to reform the food stamp program, then the cut in this bill is a phony cut and Congress is deceiving the public. If no reform takes place, the money in this bill will not be sufficient to carry us through next September, and another supplemental appropriation will be needed.

The food stamp program ought to be reformed by Congress itself, not by passing the buck to the administration. If we are going to pass the buck, however, we have an obligation to accept what the Department recommends, particularly if we are going to appropriate money on this basis. We cannot have it both ways.

With respect to the labor-HEW section, the conference report comes in at $20,105,000 above the House bill and a substantial $303,953,000 over the budget, virtually all of it in HEW.

As I indicated in my remarks on the conference report for the regular Labor-HEW bill, the excess in this bill, combined with the excess in that bill, boosts overall appropriations over the budget by $1.2 billion. When we add the education bill, the total that Congress has appropriated for Labor-HEW busts the budget by over $2.5 billion this fiscal year. This represents an all-time record of deficit spending by Congress in this field and is certainly ample reason why we need a spending ceiling. Congress simply does not have enough self-discipline to keep down expenditures on its own. There are too many pressure groups and vested interests to appease.

Of the Labor-HEW increases in the conference report over the original House bill, $3.5 million is added to health revenue-sharing grants for initiating of a hypertension program. This is virtually wasted money, because it will be spread so thin under the formula governing the 314–3 grants that the impact will be almost meaningless. We argued long and hard in conference that a change in the law allowing the money to be allocated to the major need areas was needed before funds are appropriated, but the Senate conferees apparently could not grasp that argument, and a dollar split was thus agreed to in order to avoid a logjam. It should also be noted that over $40 million will be spent this year by Heart and Lung Institute on hypertension activities.

The Senate committee report itself admits the prospect of duplication in this field.

Mr. Speaker, funds are included in the report for 150 new positions for the National Health Service Corps. This occurred in spite of the fact that 146 new slots were added by a reprograming action just this past summer, the hiring for which has not yet been completed. The 150 new positions are simply not needed.

The sum of $3 million is included to launch the National Center for the Prevention and Control of Rape, despite the fact that they do not have any clear notion downtown as to what direction the program should take and the fact that the FBI and the Law Enforcement Assistance Administration are spending over $20 million a year on rape projects.

A majority of the conferees again bowed to the pressure and added $8 million to the $77 million the House had included for nursing programs. That boosts the total for these programs over the budget by $67 million.

Finally, Mr. Speaker, I attempted in the conference to reduce the appropriation for the New York loan by $1 billion because according to figures provided by the State of New York itself, just $1,275,000,000 is necessary to meet the city's needs during the current fiscal year. That money will be allocated by the end of March, and then for the last 3 months of the year New York will have a surplus of about $1.3 billion in its cash flow, which will enable it to pay back the Federal loans by June 30. In July of 1976 the cycle starts all over again, with the peak pay-out period not being reached until March of 1977.

Since the full amount of loan money will not be needed until almost a year and a half from now, I can see no sound reason for appropriating the full amount now. By doing so, we in the Congress would be giving up virtually complete control of the situation. We would retain no significant leverage to insure that New York officials and citizens do not back down from their commitment to tighten their belts and set their own financial house in order. We would again be placing complete reliance in the executive branch, thus continuing the erosion of congressional power vis-a-vis the Executive, despite all that rhetoric we have heard during this session of Congress about the need to reverse the trend.

I am confident the Administration will stringently administer the loan fund, but we as a Congress are a co-equal branch and we ought to retain a co-equal role. We can most effectively do this through our power to appropriate, but we in effect give up this power as a lever if we appropriate the full amount at this time.

By appropriating just $1.3 billion now, we would have an opportunity to hold hearings during the spring and ascertain what kind of progress is being made. If New York is doing at that time what it says now it will be doing, then additional moneys can be appropriated as part of the spring supplemental.

Mr. Speaker, it has been suggested that even if the full amount is appropriated at this time, Congress could still review the program in connection with an administrative expenses appropriation. I submit that this is a weak alternative with little leverage, and that it would be so perceived by New York City. Once funds are appropriated, it becomes difficult to prevent their usage through a denial of administrative expenses, and the result is that New York would not feel the same pressure to fulfill its commitments that it would have if some of the actual loan moneys still had to be appropriated. In fact, it is reasonable to argue that a partial loan appropriation would actually help city officials in fulfilling their commitments because it would give them the lever of a possible congressional refusal to use to counteract a lack of citizen cooperation.

It has also been suggested that a failure to appropriate the full amount at this time would endanger the financial agreements the city has made with banks and pension funds for the purchase of short-term notes and bonds, the argument being that the lenders need the assurance of the availability of Federal funds to cushion the risk. If they were out-of-State lenders, the argument might hold water, but they are not. They are New York banks and New York pension funds. They have as much responsibility for New York's plight and recovery as anyone else. The only way the full amount of Federal loan money will not be appropriated would be if New York reneges on its commitments. So, if the lenders need assurance, let them see to it that their New Yorkers' feet are kept to the fire. They are all in the boat together, and they ought to be willing to cooperate with each other for the good of the community.

I can assure them of my support for the additional loan money next year if the commitments are kept. I voted for that authorization of $2.3 billion.

I will not renege on that kind of authorizing commitment. But as I indicated, all New York City needs between now and the end of the fiscal year is $1.3 billion to get over the first high point in their cash flow cycle. After that point we can hold hearings and check out for sure they are living up to their agreement. I think the floor dialog here will be indication enough that such appropriations will be forthcoming. We might even wish to add language to this effect in the conference report.

At the appropriate time, Mr. Speaker, I will offer a motion to recommit this conference report with instructions that the item of $2.3 billion for assistance to New York be cut to $1.3 billion, and I urge my colleagues to support that motion.

Mr. MAHON. Mr. Speaker, I yield 7 minutes to the gentleman from Massachusetts (Mr. BOLAND).

Mr. BOLAND. Mr. Speaker, as the gentleman from Illinois (Mr. MICHEL) has indicated, he is going to offer a motion to recommit this supplemental bill to the conference committee with instructions to reduce the amount for New York City from $2.3 billion to $1.3 billion.

He indicated that the seasonal financing cash-flow table that was supplied to the committee shows that the peak amount necessary for the city of New York in this fiscal year would be reached in March, and that amount would be $1,275 million. He also indicated that if at the time the money which we had appropriated under his amendment had been utilized and there was a necessity for additional funds, he would support

that movement to provide additional funds for the city of New York.

Mr. Speaker, the gentleman from Illinois (Mr. MICHEL) made that pledge just a moment ago, and I take that pledge at its face value. There is no one for whom I have greater respect and no one who has more integrity in this great body than the distinguished gentleman from Illinois (Mr. MICHEL). He does an outstanding job on the full Committee on Appropriations and on the very difficult subcommittee on which he serves. But the pledge he has just made is only his pledge. I am concerned about the position of others who have opposed financial aid to the city of New York.

As all of us know, the authorization passed this body by a vote of 213 to 203, a mere 10 votes. Therefore, there would be a real question in an election year, let me say—next year, an election year—as to whether or not we would make sufficient funds available to the city of New York to prevent a default or bankruptcy.

Mr. Speaker, I do not have to recite all the pros and cons of this issue. I think all of us have heard them, but what I do want to emphasize is that this really is the time to deliver on the pledge, not a year from now, but now. If we fail to deliver on the pledge at this time, I think that we do damage to the whole structure that was so laboriously put together by Governor Carey of New York; by the mayor of the city of New York, Mayor Beame; by the administration itself, by President Ford, by Secretary Simon; by those who are running Big MAC in New York; and by a whole host of others.

This is a complete package, not for 1 year, but for 3 years. That is how the agreement was reached, and I think that anyone who is a contributor to the bond market and the investment field would conclude that a failure to deliver on the $2.3 billion authorization and the $2.3 billion appropriation would do great damage to the investment field and to the ability of the city of New York to sell its bonds.

I know that the motion to recommit looks like an attractive deal. I know that the gentleman from Illinois (Mr. MICHEL) has looked at the seasonal requirements, and I know that the argument that the maximum amount required to cover these imbalances in revenues and expenditures between now and next June is only $1.3 billion. On the surface that argument has an appeal, but if you look behind, it has no appeal. You really are going to do damage to the city of New York. I think without following the commitment that the Congress has made, the administration has made, and that the conference report recommends, we will do great damage to the city of New York. I do not think we ought to take that chance. I think it is too dangerous.

What about controls? There was something said here about controls that have been imposed on the city of New York. There are a number of conditions attached to the loan authority, all designed to protect the Federal Government and to insure the Federal Government against losses.

A loan may be made only if the Secretary determines that there is a reasonable prospect of repayment and then under such circumstances and conditions as he requires to insure repayment.

No loans may be provided unless all prior loans which have become due have been repaid and the Secretary may require such security as he deems appropriate.

The proposal that has been entered into by the Federal Government, by the State of New York, and by the city of New York contains provisions to permit adequate oversight of the city's financial affairs by the administration and by the Congress during the life of the act. And the act only lasts for 2½ years.

I think it is important to understand what controls the Treasury Department will establish on these funds.

The parties concerned, the Municipal Corporation, the Emergency Control Board, the city, and the Federal Government are establishing formal legal relationships. This agreement will be constructed this month and it will give the Treasury authority to divert revenue flows from the State to the Federal Government.

In effect, what will be created is a "blocked account" from which New York will not be permitted to withdraw funds until the money loaned by the Federal Government is repaid. And that is security at par plus, I would say.

I also should advise the Members of the House that the Treasury Department will establish a regular system of reporting to the House and the Senate Banking and Appropriation Committees. A liaison will be established that will provide a weekly or monthly analysis of how the total plan is performing against what was expected. The Treasury also plans to engage full-time auditors who, working with the General Accounting Office, will monitor New York's fiscal integrity on a weekly basis.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. MAHON. I yield the gentleman 2 more minutes.

Mr. BOLAND. These safeguards are reinforced by the Emergency Control Board, which is chaired by Governor Carey, and which must pass upon each and every expenditure of the city. The Board will not let the city deviate from the strict 3-year budget balancing proposal, and the Treasury will be watching both the Board and the city.

Finally, the Appropriation Committees of the Congress must approve each year the administrative expenses necessary for the Treasury to monitor this agreement. We can add, we can subtract and we can earmark these funds as the circumstances require.

Let me again say, Mr. Speaker, that the danger, should the motion that will be offered by the gentleman from Illinois prevail—the danger is that we could increase the uncertainty for New York in the bond market and indirectly cause bankruptcy or default if we vote in favor of this motion.

Again let me emphasize that the proposal was developed by the Governor, and of course, all of the city officials of New York. The package was hammered together by the banking community, by Big Mac and by the pension funds, and it was a very difficult proposition.

I think we would endanger the whole structure if we were to vote for the motion of the gentleman from Illinois. I hope that motion does not prevail.

Mr. MAHON. Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. ADAMS).

Mr. ADAMS. Mr. Speaker, on December 12, the Congress finally adopted House Concurrent Resolution 466, the second budget resolution for fiscal year 1976. As a result, we now have binding ceilings on budget authority and outlays and a lending floor for revenues which will guide future congressional actions with respect to the fiscal year 1976 budget.

Many Members have inquired as to when a point of order will lie against a spending measure for breaching the ceiling and I would offer the following explanation. No point of order will lie against a spending bill for breaching the ceilings until the aggregate ceilings of $408 billion for budget authority and $374.9 billion for outlays are reached. There is no ceiling for point of order purposes in the functional category breakdowns; ceilings on on the totals only.

The supplemental bill before us today does not breach the aggregates although it does include some spending not assumed by the House in the budget resolution functional allocations. Our budget experts inform me that based on spending on the books right now—that is, authority enacted in prior years including permanent authority, enacted this session and entitlement authority which may require further supplmentals this year—we have used up about 50 percent of the total amounts for budget authority and 77 percent for outlays. This is because we have a number of components of the budget not yet enacted into law, including the defense appropriation. Thus, as of today, we are not going to breach the ceilings.

Section 311(b) of the Congressional Budget Act establishes that for point of order purposed, the level of outlays and revenues for a fiscal year shall be determined on the basis of estimates made by the budget committees of the House and Senate. The House Budget Committee will be making such an estimate immediately after the recess based on our staff work in conjunction with the Congressional Budget Office. After that point, we will be tracking various spending bills and amendments to determine if they will cause the ceilings of revenue floor to be breached.

With respect to the measure now before us, the amounts contained therein track approximately the amounts contemplated in the second resolution, with the exception of the New York funds. As the statement of managers on House Concurrent Resolution 466 notes, no funds are provided in the resolution for New York. This is because the program request for direct loans was submitted after the resolution and cleared the House and Senate. Should the budget

authority for New York of $2.3 billion not be offset by reductions in other amounts assumed in the second budget resolution, a point of order will lie against spending for which amounts have been assumed when such a supplemental appropriation bill reaches the floor in the spring.

Mr. CEDERBERG. Mr. Speaker, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from Michigan.

Mr. CEDERBERG. I thank the gentleman for yielding.

Is the gentleman speaking about the funds for fiscal year 1977? He is not referring to the existing ceilings in the conference report we just passed; is he?

Mr. ADAMS. I am. I am referring to fiscal year 1976.

Mr. CEDERBERG. That has no force of law at all.

Mr. ADAMS. I would correct the gentleman. That has an absolute force of law. If the gentleman would refer to the implementation report filed in the House and to the debate we had on the floor, that is a ceiling under the law which is enforceable under the act. The targets went out of existence when the second concurrent resolution with the binding ceiling was adopted for fiscal year 1976.

Mr. CEDERBERG. In other words, what we went through was not a so-called dry run?

Mr. ADAMS. It was not, and we kept repeating that to the gentleman that it was not. We partially implemented the Budget Act only because part of it was already in the budget cycle. The parts implemented included a second concurrent resolution which has established a ceiling and a floor.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. CEDERBERG. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, I would say in reply to the gentleman from Washington (Mr. ADAMS) that perhaps the budget procedure we just went through may have the force of law, but apparently based on his announcement today it was a farce. I say that because he has repeatedly assured the House that the $2.3 billion for New York City loans was not included at any point in the consideration of the Budget Committee. Yet he comes before us today and says it is perfectly all right to go ahead and pass the supplemental appropriation because the aggregate ceiling of total Federal outlays is not broken, at least at this moment in time.

When the crocuses and the next supplemental come up in the spring, we can all judge whether or not this streamlined budget procedure has any meaning or whether it does not. I can only see from what the gentleman from Washington says here today that it does not.

I had intended to make a point of order against the New York loan amounts but I ran into the same sophisticated and, in fact, rather sophistic argument the gentleman from Washington just made as to whether this amount was in excess of the budget aggregates. Apparently it is all right to spend money that the Budget Committee has not allocated even after we have passed the concurrent resolutions setting budget and spending ceilings.

On another point, Mr. Speaker, I just want to say I rise in support of the gentleman from Illinois (Mr. MICHEL) and his suggestion that we reduce the New York loan provisions by at least $1 billion.

We have been told all sorts of stories about the financial plight of New York City. We were told New York City was about to collapse last Thursday unless we acted. We were told the bond market would be affected. We passed the authorizing legislation and the stock market went down 20 or 30 points in 3 days, contrary to predictions.

I think the real issue is credibility and whether we in the Congress will accept the responsibility for these funds taken from the taxpayers. There is no reason we cannot return next spring and examine the New York appropriation, as the gentleman from Illinois suggests. That would be the prudent manner in which to conduct our business; but I have long since given up any thought that fiscal prudence will prevail in this body as it is now constituted; but at least the gentleman from Illinois is ready to shoulder the responsibility and not swallow the theory that once we pass an authorization we have to accept blindly the word of people that have shown they do not know how to manage the affairs of New York City. For those Members who supported the New York loan bill, they can now redeem themselves by supporting the motion of the gentleman from Illinois (Mr. MICHEL). I hope all Member will do that.

Mr. MAHON. Mr. Speaker, I yield such time as he may consume to the gentleman from Mississippi (Mr. WHITTEN).

Mr. WHITTEN. Mr. Speaker, could I have the attention of the gentleman from Washington (Mr. ADAMS).

Mr. Speaker, I was one of the co-chairmen on the original Study Committee on the Budget and served the first year on the Committee on Budget.

Now, it is my belief and my understanding as we went along that this committee would have the responsibility of trying to put together and trying to set a target for the Congress and later to set a firm target; but never have I understood, and I do not so understand now, that this committee or any committee can bind a Congress throughout its session. While the gentleman from Washington is one of the finest and ablest Members of this Congress, one of the things we had in this conference was that some of our friends on the other side took it that they had a right to set up an office of budget comparable with that of the executive branch and that they, and they alone, had the right to make exceptions to it, and to set up study groups to supervise particular departments.

Members of our Committee on Appropriations have received the schedule of the various subcommittees of the Appropriation Committee. I do not see any way in the world we can live up to that short schedule. It is our committee which reduced budgets through the years. I do not see how our committee can do a good job on the budget, in the short period allowed unless we accept last year's expenditures reduced by 1 percent, 2 percent or 3 percent, because to do the regular job we must have time to study these bills, time which the gentleman from Washington does not have, time which his committee does not have, because its members serve on other committees. Again a resolution which binds the Congress; until the Congress decides differently. That is my understanding.

Mr. ADAMS. Mr. Speaker, if the gentleman will yield, the gentleman can do, of course, what he wishes by changing the law, by enacting a new statute; but section 311(a) of the Budget Act says, and I know the gentleman is familiar with this because he was one of those that drafted it, that after the bill has been enacted into law or any binding concurrent resolution has been agreed to, it shall not be in order for either the House of Representatives or the Senate to consider any bill, resolution or amendment, providing additional new budget authority for such fiscal year or providing new spending authority described in section 401(2)(c).

The SPEAKER pro tempore (Mr. MCFALL). The time of the gentleman has expired.

Mr. CEDERBERG. Mr. Speaker, I yield the gentleman 2 additional minutes.

Mr. ADAMS. Or reducing revenues for such fiscal year or any conference report or bill or resolution, if the enactment would cause the appropriation level or total new budget authority or total budget outlays set forth in the most recently agreed to binding concurrent resolution of the budget for the fiscal year to be exceeded.

Which of course leaves out the concurrent resolution itself, which is subject to change by the Congress when it sees fit. And it is subject to change. That is a point that was not being brought out, that the result is binding unless the Congress sees fit to change the resolution.

Mr. ADAMS. Absolutely. If the gentleman wishes to go to a third concurrent resolution.

Mr. WHITTEN. That is a point that has to be made and it was not being made in the committee. I would like to say I voted against this resolution. Why? Not because it was too low but had I voted for the ceiling I would have been approving many programs and billions of dollars, which I have been voting against consistently.

I think the gentleman, with time and experience will learn, and we have all got to gain the experience, that changes will prove to be necessary. The gentleman is one of the ablest Members of this Congress, but there never was an attempt to make the ceiling firm to the point that the appropriation for an entire department or program might come up last and be subject to a point of order on the whole department and thus left out. The gentleman can see where we are going to have to grow with this vehicle of a target and later an overall budget. I am glad I brought this out again. The Congress can change this vehicle when it becomes necessary, in fact when we see fit.

Mr. ADAMS. This is why we took the time today to explain this because the

Members voted on this and endorsed the fixed ceiling.

Mr. WHITTEN. Until the Congress changes its mind.

Mr. ADAMS. Until the Congress adopts another concurrent resolution changing the ceiling. The reason why I brought this up today is the resolution passed last week by a vote of only 187 to 185, and I think the Congress has pretty well agreed upon where they want the ceiling.

The reason for the problem with the New York and Sinai situation was we implemented those projects this year after the budget process had been completed because we did not have the locking process or having the bills reported at a particular time fully implemented, so we were into the fiscal year before these bills came up.

Mr. WHITTEN. I appreciate the gentleman's willingness to acknowledge that but he can see the ridiculous position where we would be if we had gone up to the point where we had used up all the money under the resolution but had not considered the Department of Defense, where all items of Defense would be subject to a point of order under the gentleman's first statement.

Mr. MAHON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I wish to address myself particularly to the Members who voted against the so-called bail out program for New York City. I myself opposed the various proposed programs. I voted against the New York City loan program. As the Members know this program was initiated, revised, and discussed at length and finally the House and the other body approved a loan program for New York City after it was recommended by the President. I voted against the loan program but I lost. A majority of the Congress and the President have now determined that there will be a program of aid for New York City. Now what shall I do? I am going to do the only sensible thing that I know to do. I am going to try to help the program succeed and avoid losses to the taxpayer which might otherwise occur.

Under the bill before us in conformity with the law we are going to be providing a loan to New York which must be repaid within the year. Under the bill we are going to provide the city this year a loan of up to $2.3 billion. Under the motion to recommit which will be offered by the gentleman from Illinois we would provide $1.3 billion. In other words the gentleman from Illinois does not want to kill the loan program for assistance to New York. That is not his object. If we are against assistance to New York, there is no need for us to vote for the proposal of the gentleman from Illinois with the thought it abolishes the New York City aid program, it does not.

And I for one cannot support the motion of my friend from Illinois (Mr. MICHEL), as able and fine a gentleman as I regard him.

We would be glambling that the program would succeed despite his motion. There are officials in the Treasury Department who would say that the Michel motion might cause the program to fall on its face since the whole program of aid to New York City was based on the banks in New York City supplying about $2.5 billion, and the Federal Government $2.3 billion which would be repaid at the end of the year in which it is loaned.

If we reduce the Federal share of the program, it greatly increases the chances that New York will not be able to get back on its feet.

Obviously, it is impossible to say flatly that this program of $2.3 billion will succeed. But I am confident that we are doing our very best to create a very tightly run, closely monitored situation as far as the part of the Federal Government is concerned.

I see no need to take that chance at this time as it would impact heavily on the taxpayer—and instead of saving a billion dollars as the gentleman from Illinois proposes, we would face the possibility of losing forever $1.3 billion. It would be better to loan New York City $2.3 billion and have it all repaid than just loan New York $1.3 billion and get none of it back.

The Michel amendment proposes an appropriation of $1.3 billion for the New York City loan. We should not take a chance on having the loan funds not to be repaid. If we make this program succeed, if we give it a maximum opportunity to succeed, and it does succeed, then we lose nothing. So, I am not in favor of gambling on losing the $1.3 billion, through the adoption of the Michel motion. We are stuck with the program any way we go, and I feel that since Congress has passed the bill and the President has aproved it and it has been enacted into law, that it is up to us to try to make the program work and not cost the taxpayers any money.

Another factor involved in this, I would like to say, is that under the old system this bill would have been handled by the Committee on Banking, Currency and Housing, and never would have seen the light of day in the Appropriations Committee, but under the new order of things in the House and the new rules, the Committee on Banking, Currency and Housing very generously agreed with us that since the measure did financially commit the Federal Government, the funding should be handled by the Appropriations Committee, and so it did come to the Appropriations Committee for funding. Here it is today in this conference report. So, it is a cup which many of us wished could have been avoided, but nevertheless it is a responsibility we have to face.

Do we want to give this program a maximum opportunity to succeed? If we do, at the minimum cost to the taxpayer, if we want to give it the chance to succeed at minimum cost to the taxpayer, we should vote against the Michel motion. It is just that simple to me, regardless of what Members may think about New York. The gentleman from Massachusetts (Mr. BOLAND) said that if we had to renew this in the middle of next year, in the elections, it might lose.

It might lose, and then the $1.3 billion is down the drain in all probability. I am not seeking to introduce political considerations into this matter, but I am just trying to reason with the Members as I have reasoned with myself as to what to do. Many papers have said, the television has said, the radio has said, that I have said I am against the program of bailing out New York.

That is correct, but we have passed that stage. That decision has been made. The law is on the books, and we are now faced with the issue of trying to make this program succeed at a minimum loss—at no loss, shall I say—to the American taxpayer.

So, I do not find it a difficult decision for me to make with respect to how to vote. If the gentleman had made a motion to recommit the bill because some of the other high figures for the other program in the bill, it might have had more charm and appeal, but under present circumstances I do not want to take the chance and be responsible for the loss which might be entailed.

Mr. ROUSH. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to my colleague from Indiana.

Mr. ROUSH. Mr. Speaker, I thank the gentleman for yielding to me. As I understand it, I agree with the chairman. The Treasury Department is establishing strict control over these funds, and already my chairman and the Treasury Department have been communicating with each other. There will be a regular system of reporting from the Treasury Department to the Appropriations Committee so that the monitoring will not be haphazard, but will be on a regular, consistent basis so that the Congress itself will know how these moneys are being spent and controlled. I ask the chairman, is that correct?

Mr. MAHON. The gentleman is correct.

Mr. BOLAND. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Massachusetts.

Mr. BOLAND. Mr. Speaker, I want to compliment the distinguished chairman of the full Appropriations Committee on a very fine statement, a very statesmanlike statement. I would also like to ask him what in his judgment would happen if this bill were recommitted to Congress, and particularly in view of the fact that a similar amendment was offered in the Senate twice, and twice rejected by votes of 63 to 26 and 63 to 18.

The identical motion that the gentleman from Illinois will offer was defeated twice in the Senate by those substantial margins. Would the distinguished chairman care to venture an opinion as to what would happen if it went back to conference on this very item?

Mr. MAHON. I do not know just what the final outcome would be, but it would certainly be a difficult situation.

I feel that what has been said here in this debate should weigh very heavily, especially with people who voted against the proposal to extend assistance to New York City.

Mr. AuCOIN. Mr. Speaker, I would like to take this opportunity to commend the members of the conference committee for their quick action in accepting a Senate amendment calling for $1,250,000 for restoration and repair of storm

damage in coastal counties in northwest Oregon.

Heavy rains began in this area on November 30 and totaled 10 to 12 inches by Thursday morning, December 4. High tides of 95 to 100 feet occurred during this time along with winds reaching 75 miles per hour. The extent of destruction, in financial terms, is still being determined. The damage in personal terms, however, is already apparent.

Specifically, these funds are needed immediately for restoration work on non-forested land for debris removal, stream bank protection, and dike repair in three drainage districts. The amount called for by the amendment is based on the preliminary damage estimate made by the Soil Conservation Service.

It is urgent that this assistance be available to these counties as soon as the full extent of destruction is determined, and passage of this conference report with the emergency amendment will help to insure that there are no bureaucratic delays in getting this aid to the people of northwest Oregon as soon as the damage assessments are received. Again, I thank the chairman and the committee for including these much-needed funds in the report.

Mr. COHEN. Mr. Speaker, the supplemental appropriations bill we are now considering contains important funds for housing programs, health programs, mental health programs; nurses training, and other programs. I support this funding. H.R. 10647 also contains, however, a $2.3 billion appropriation for a revolving loan fund for New York City. I have opposed this proposal in the past and I continue to oppose it.

I intend to support the efforts of my distinguished colleague from Illinois to recommit the bill with instructions to delete a major portion of this funding. But if this effort fails, I will vote for final passage of the supplemental, albeit reluctantly.

Mr. Speaker, I believe we cannot throw the baby out with the bath water. The House had a chance to reject the New York City loan plan when it considered the authorization for the program. It failed to do so—a mistake, in my view.

But I believe that it would be an equally large mistake to endanger other needed programs just to demonstrate my continued opposition to the New York City bailout. The bulk of the funds contained in the supplemental are vitally needed in many areas of the country, including my own district. In voting for the bill, I am voting for these funds.

Mr. GRASSLEY. Mr. Speaker, it is regrettable that the House and the Senate have passed, and the President has signed, an authorization bill intended to cure New York of its fiscal woes. Not only has New York City done little to cut back city expenditures and bring its budget into balance, but, in fact, a Washington Post artcle of November 28 quotes city officials as saying that they are nowhere near a balanced budget and have no specific plans to pay off the short-term debt.

If this body goes on record in favor of appropriations for New York, I hope each and every Member who votes "yea" will admit his responsibility for contributing to the 40-year-old myth that deficit spending is wise spending. One can hardly say that New York is lucky that there is a Washington to bail it out. Congress has been duped as badly as were the citizens of the city of New York. Unfortunately, the duping of Washington is more tragic because it simply puts the entire Nation one step closer to national bankruptcy.

Gentlemen and gentlewomen, I hope that when election day rolls around, when each of us is back home trying to convince the American people that our votes were supportive of sound fiscal policy, that the people will look at what we have done, and not what we have said.

Mr. PICKLE. Mr. Speaker, during the course of consideration of this bill, a proposal came to light to move the Rural Electrification Administration from the Department of Agriculture buildings to a suburban location.

Fortunately, the proposal was brought to light before the Senate completed work on the bill and language could be included in the Senate report to prohibit the move.

There are serious reasons not to allow the move, especially without careful consideration by Congress.

Besides the cost factors implicit in any move, estimates were that moving the REA headquarters could add as much as half a million dollars a year to the REA administrative budget to cover increases in costs of computer and other shared services. The proposed new location for the REA would also have been extremely inconvenient for rural electric personnel, who do not have the alternative of regional offices or other field offices in which to conduct their business.

In conference, the House agreed that the language prohibiting the move should be maintained, and I wholly support that decision. The REA is administering programs which involve tremendous public investment of critical importance to millions of Americans and they are doing so at a relatively low cost. The prevention of this move is in my view, a step to continue the good services of the REA in bringing electric power to nonurban America.

Mr. GOLDWATER. Mr. Speaker, contained in H.R. 10647, the first supplemental appropriation, is $3.4 million in emergency funds for the Angeles National Forest.

I want to express my support for these funds and urge my colleagues in the House to retain them.

As many of you know, southern California and the Angeles National Forest was recently ravaged by two severe forest fires that destroyed a'most 68,000 acres. The fires damaged or destroyed some 38 private residences, and they burned away almost all the vegetation. Fortunately, there was no loss of life.

While the declaration of the Small Business Administration that the area qualifies for loan assistance because it was rendered a disaster area will certainly help those immediately affected by the fire, the destruction of ground cover and vegetation exposes all surrounding areas to severe flooding and soil erosion. Reclamation must be begun immediately so that reseeding and reconstruction of debris and water basins may begin and be substantially completed before the traditionally heavy winter rains come to the Los Angeles area.

Regretfully, this legislation had already passed the House when the fires struck. My colleague JOHN ROUSSELOT and I undertook to enlist the assistance of our California Senators in this matter. They responded with an amendment on the floor of the Senate adding the necessary funds. Most of the California congressional delegation joined us in the request, and for the RECORD I enclose the pertinent correspondence.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., December 4, 1975.

DEAR CALIFORNIA COLLEAGUE: As you well know, the Los Angeles region was recently ravaged by severe forest fires in the Big Tujunga and Mount Baldy areas. These fires destroyed a total of 60,000 acres of the Angeles National Forest. Also lost were some 20 homes and over 95% of the forest and watershed in the affected areas.

The problem confronting the forest management people is that they have less than one month in which to repair these burned areas in order to protect the terrain, watersheds and residential areas from the flooding and soil erosion which will certainly accompany the Southern California December and January rains.

We wish to enlist your support for a delegation request to our California Senators to offer an amendment to the supplemental agricultural appropriations bill to add $3.5 million to the Forest Service Maintenance Program. This amount is needed for reseeding, stabilization of road fills, earthen dams and repairs in recreational areas.

Enclosed is a copy of the delegation letter, and we would sincerely appreciate your assistance in helping to avert a worse disaster than the fire.

Sincerely,

BARRY M. GOLDWATER, Jr.,
Member of Congress.
JOHN H. ROUSSELOT,
Member of Congress.

DECEMBER 4, 1975.

Hon. JOHN V. TUNNEY,
Dirksen Senate Office Building,
Washington, D.C.

DEAR JOHN: As you undoubtedly know, Southern California has had the great misfortune to be ravaged by severe forest fires which affected two areas in the greater Los Angeles region: Big Tujunga and Mount Baldy. Serious damage was inflicted on a total of 60,000 acres of forest and watershed. Also lost were some 20 private residences.

The problem confronting the forest management is that they have less than one month in which to repair these burned areas in order to protect the terrain and watersheds against the severe December and January rains which come to Southern California. In normal times, the rains present serious flood and soil erosion, and the devastation of fire has removed all soil covering. In addition, the fire fighting activity required damage to the roads and dams. Bill Dresser, Supervisor of the Angeles National Forest, in which the fires occurred, has indicated the following restorative operations must be undertaken immediately:

Reseeding—for rapid growth before rains to prevent mud slides.

Approximate cost: $500,000.

Stabilization—of road fills and trails to prevent mud slides.

Check Dams and Debris Dams—to check run-off.

Rehabilitation and Protection—of damaged areas including recreation areas.

Approximate cost: $3 million.

The need is for $3.5 million and the Angeles National Forest has no funds available to support the cost of this emergency effort.

On Thursday, December 4th, the Senate Appropriations Committee reported out the supplemental agriculture appropriations bill. The full Committee was informed of the situation confronting the Angeles National Forest, but the short notice worked against the inclusion of these desperately needed funds.

We, the undersigned members of the California Congressional Delegation, urge you to amend this legislation to include the $3.5 million emergency assistance funds.

Sincerely yours,

BARRY M. GOLDWATER, Jr.,
Member of Congress.
JOHN H. ROUSSELOT,
Member of Congress.

In addition, Congressman ROUSSELOT and I sent an urgent telegram to the Secretary of Agriculture requesting his assistance and support. The response of his Department was quick and affirmative. Mr. Robert W. Long, Assistant Secretary for Conservation, Research and Education has informed me that the Department will move immediately to repair and reclaim the burned out areas once the funds are made available. I include a copy of his letter for the RECORD:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., December 11, 1975.

Hon. BARRY M. GOLDWATER, Jr.,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN GOLDWATER: This responds to your telegram of December 7, 1975, pointing out the emergency in the Angeles National Forest in Southern California and requesting support for Section 216 funding for emergency measure installation on the impaired watershed.

When the supplemental act is signed, we will recommend that the funds for work that can be completed in FY 1976 be made available in 1976. The amount to be expended during FY 1976 will be determined by factors such as availability of resources, equipment and people, and weather conditions, and will be determined by field employees who are familiar with the problem. Remaining funds will be available beginning in July 1976.

Sincerely,

ROBERT W. LONG,
Assistant Secretary for Conservation, Research and Education.

Finally, Mr. Speaker, I want to bring to the Members' attention the diligent efforts of Mr. William T. Dresser, the forest manager of the Angeles National Forest. He and his staff first had to deal with fighting the fires and then, without any rest, move to evaluating the damage and preparing the necessary reports so that reliable information would be available for the Congress to act on. He is an exemplary public servant and California and the Los Angeles area are indeed fortunate to have him working in their behalf.

I urge the House to retain these necessary funds.

Mr. VANIK. Mr. Speaker, I note that conference amendment No. 66 deletes the appropriation provided by the House of Representatives for the Internal Revenue Service's Employee Plans and Exempt Organizations Office.

Originally, the House Committee provided some $4 million for this office to help administer the new Pension Reform Act. The Senate committee deleted this appropriation, and I regret to note that the conferees have accepted the other body's position.

The Employee Retirement Income Security Act of 1974 is one of the most complex bills passed in recent years. It is a very difficult program to administer. During the coming year, IRS will be reviewing over 500,000 pension plans to determine whether those plans are taking steps to comply with the new law. It has been calculated that with present manpower, that the IRS would only have enough staff to spend 9 minutes per plan during 1976 to determine if the plan was complying with the complex new legislation.

The Pension Reform Act was some 10 years in the making—and now its promised reforms are being crippled because of inadequate appropriations. The IRS, for example, requested $14 million from OMB for the administration of the new act. OMB totally denied that request.

I would hope that when the spring supplemental is requested that the House committee could again consider providing an appropriation for the Office of Employee Plans and Exempt Organizations. While we can now anticipate that this program is headed toward disaster, I believe that by late winter we will have sufficient documentation of the demands upon IRS that we will be able to convince the other Chamber to support even more than a $4 million appropriation.

I want to thank the House committee members for supporting this appropriation when it was before their committee and before the House, and I hope that something can be provided in the next supplemental.

Mr. WAMPLER. Mr. Speaker, I am unequivocally opposed to Senate amendment No. 14 in the conference report to the bill, H.R. 10647, making supplemental appropriations for fiscal year 1976. Section 14 establishes the New York City seasonable financing fund in the amount of $2.3 billion.

It is my intention to support Mr. MICHEL's motion to recommit the conference report with instructions to reduce one billion dollars from the appropriations for New York City. It is my understanding that this amount will not be needed until after June 30, 1976, and by withholding these unneeded funds until that time it is my judgment that New York City will be induced to further correct its situation. To do otherwise would tempt the city to let up on its promised efforts to do everything in its power to solve its own problems.

If the Michel motion fails, I will then vote for the conference report to preclude the loss of other appropriations in the bill, such as $500 million for insured loans from the Rural Housing Insurance Fund and the $26.4 million for certain flood control activities, emergency runoff retardation and soil erosion prevention, both administered by USDA and vitally needed in our agriculture communities.

Mr. Speaker, if the parliamentary situation permitted, I would vote against any aid to New York City.

Mr. MAGUIRE. Mr. Speaker, although I strongly favored Federal action, contingent upon stringent fiscal and budgetary reforms, to assist New York to avert default, I voted "present" on the recommittal motion with instructions to alter the appropriation for New York, and on the final vote on the Supplemental Appropriations Act to avoid any possible conflict of interest, or appearance of conflict, arising from the fact that my wife, Margaret, owns municipal assistance corporation bonds.

On October 28, 1975, I inserted in the CONGRESSIONAL RECORD at page 34128, the details concerning my wife's holdings, together with the disclosure of same contained in my letter of October 20, 1975, to the Committee on Standards of Official Conduct.

Mr. MAHON. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

MOTION TO RECOMMIT OFFERED BY MR. MICHEL

Mr. MICHEL. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the conference report?

Mr. MICHEL. Mr. Speaker, I am opposed to the conference report in its present form, yes.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. MICHEL moves to recommit the conference report on H.R. 10647 to the committee of conference, with instructions to the managers on the part of the House to move that the House recede from its disagreement to the amendment of the Senate numbered 14 and concur therein with an amendment, as follows: In lieu of the sum provided in said amendment, insert: "$1,300,000,000".

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The Speaker. The question is on the motion to recommit.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. MICHEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make a point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 187, nays 219, answered "present" 2, not voting 26, as follows:

[Roll No. 782]

YEAS—187

Abdnor	Ashbrook	Breaux
Allen	Bafalis	Brinkley
Anderson, Calif.	Baldus	Brooks
	Bauman	Broomfield
Andrews, N. Dak.	Beard, Tenn.	Brown, Mich.
	Bennett	Brown, Ohio
Archer	Bevill	Broyhill
Armstrong	Bowen	Buchanan

Burgener
Burleson, Tex.
Butler
Byron
Carter
Cederberg
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Tex.
Conlan
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
de la Garza
Derwinski
Devine
Dickinson
Downing, Va.
Duncan, Tenn.
du Pont
Early
Edwards, Ala.
Emery
Erlenborn
Esch
Eshleman
Evans, Ind.
Findley
Fithian
Flynt
Forsythe
Fountain
Frey
Fuqua
Gibbons
Ginn
Goldwater
Goodling
Gradison
Grassley
Hagedorn
Haley
Hamilton
Hammer-schmidt
Hansen
Harsha
Hechler, W. Va.
Hefner
Heinz
Henderson
Hightower
Hillis
Holland
Holt
Hubbard
Hutchinson
Hyde
Ichord
Jacobs
Johnson, Colo.
Jones, N.C.
Kasten
Kazen
Kelly
Kemp
Ketchum
Kindness
Krueger
Lagomarsino
Landrum
Latta
Levitas
Lloyd, Tenn.
Long, Md.
Lott
Lujan
McClory
McCollister
McCormack
McDade
McDonald
Madigan
Mann
Martin
Mathis
Michel
Milford
Miller, Ohio
Mills
Montgomery
Moore
Moorhead, Calif.
Mottl
Myers, Ind.
Myers, Pa.
Neal
Nichols
O'Brien
Perkins
Pettis
Pickle
Poage
Pressler
Preyer
Pritchard
Quie
Quillen
Railsback
Randall
Regula
Rhodes
Roberts
Robinson
Rogers
Rose
Rousselot
Runnels
Ryan
Santini
Satterfield
Schneebeli
Schroeder
Schulze
Sebelius
Shipley
Shriver
Shuster
Sikes
Skubitz
Smith, Nebr.
Snyder
Spence
Steelman
Steiger, Ariz.
Steiger, Wis.
Stuckey
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thone
Treen
Vander Jagt
Waggonner
Wampler
White
Whitehurst
Wiggins
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Tex.

NAYS—219

Abzug
Adams
Addabbo
Alexander
Ambro
Anderson, Ill.
Annunzio
Ashley
Aspin
AuCoin
Badillo
Barrett
Baucus
Beard, R.I.
Bedell
Bergland
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Brademas
Breckinridge
Brodhead
Brown, Calif.
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, Phillip
Carney
Carr
Casey
Chisholm
Clay
Conable
Conte
Conyers
Corman
Cornell
Cotter
Daniels, N.J.
Danielson
Davis
Delaney
Dellums
Dent
Derrick
Diggs
Dingell
Dodd
Downey, N.Y.
Drinan
Duncan, Oreg.
Eckhardt
Edgar
Edwards, Calif.
Eilberg
English
Evans, Colo.
Evins, Tenn.
Fary
Fascell
Fenwick
Fish
Fisher
Flood
Florio
Ford, Tenn.
Frenzel
Giaimo
Gilman
Green
Gude
Hall
Hanley
Hannaford
Harkin
Harrington
Harris
Hastings
Hawkins
Hayes, Ind.
Hays, Ohio
Heckler, Mass.
Helstoski
Hicks
Holtzman
Horton
Howard
Howe
Hughes
Jeffords
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, Okla.
Jordan
Karth
Kastenmeier
Keys
Koch
Krebs
LaFalce
Leggett
Lehman
Lent
Litton
Lloyd, Calif.
Long, La.
McCloskey
McEwen
McFall
McHugh
McKay
McKinney
Macdonald
Madden
Mahon
Matsunaga
Mazzoli
Meeds
Melcher
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Morgan
Moss
Murphy, Ill.
Murphy, N.Y.
Murtha
Natcher
Nedzi
Nix
Nolan
Nowak
Oberstar
Obey
O'Hara
O'Neill
Ottinger
Passman
Patman, Tex.
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Peyser
Pickle
Pike
Pressler
Preyer
Price
Quillen
Railsback
Randall
Rangel
Rees
Reuss
Richmond
Rinaldo
Risenhoover
Rodino
Roe
Roncalio
Rooney
Rosenthal
Rostenkowski
Roush
Roybal
Ruppe
Sarasin
Sarbanes
Scheuer
Seiberling
Sharp
Sisk
Slack
Smith, Iowa
Solarz
Spellman
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Stokes
Stratton
Studds
Sullivan
Thornton
Traxler
Tsongas
Udall
Ullman
Van Deerlin
Vander Veen
Vanik
Vigorito
Walsh
Weaver
Whalen
Whitten
Wilson, C. H.
Wolff
Wright
Wydler
Yates
Young, Ga.
Zablocki
Zeferetti

ANSWERED "PRESENT"—2

Gonzalez
Maguire

NOT VOTING—26

Andrews, N.C.
Bell
Burke, Fla.
Burton, John
Collins, Ill.
Flowers
Foley
Ford, Mich.
Fraser
Gaydos
Guyer
Hébert
Hinshaw
Hungate
Jarman
Jenrette
Jones, Tenn.
Metcalfe
Riegle
Russo
St Germain
Simon
Stephens
Symington
Thompson
Waxman

The Clerk announced the following pairs:

On this vote:

Mr. Hébert for, with Mr. Thompson against.

Mr. Stephens for, with Mr. St Germain against.

Mr. Burke of Florida for, with Mr. Russo against.

Mr. Jarman for, with Mr. Ford of Michigan against.

Mr. Guyer for, with Mr. Foley against.

Mr. Hinshaw for, with Mr. John L. Burton against.

Mr. Bell for, with Mr. Waxman against.

Mr. Flowers for, with Mr. Metcalfe against.

Mr. Jones of Tennessee for, with Mrs. Collins of Illinois against.

Mr. Hungate for, with Mr. Symington against.

Mr. Jenrette for, with Mr. Riegle against.

Mr. Andrews of North Carolina for, with Mr. Simon against.

Mr. EVINS of Tennessee and Mr. RICHMOND changed their vote from "yea" to "nay."

Messrs. ARCHER, STUCKEY, BUCHANAN, PREYER, and PERKINS changed their vote from "nay" to "yea."

Mr. MAGUIRE changed his vote from "nay" to "present."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 275, nays 130, answered "present" 1, not voting 28, as follows:

[Roll No. 783]

YEAS—275

Abzug
Adams
Addabbo
Alexander
Ambro
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Ashley
Aspin
AuCoin
Badillo
Baldus
Barrett
Baucus
Beard, R.I.
Bedell
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Brademas
Breckinridge
Brodhead
Brooks
Brown, Calif.
Brown, Mich.
Brown, Ohio
Buchanan
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, Phillip
Carney
Carr
Casey
Cederberg
Chisholm
Clay
Cohen
Conable
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Esch
Evans, Colo.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Flood
Florio
Ford, Tenn.
Forsythe
Frenzel
Giaimo
Gilman
Gonzalez
Green
Gude
Hall
Hanley
Hannaford
Harkin
Harrington
Harris
Hastings
Hawkins
Hayes, Ind.
Hays, Ohio
Heckler, Mass.
Heinz
Helstoski
Hicks
Hightower
Holland
Holtzman
Horton
Howard
Howe
Jeffords
Johnson, Calif.
Johnson, Pa.
Jordan
Karth
Kastenmeier
Kazen
Kemp
Keys
Koch
Krebs
LaFalce
Leggett
Lehman
Lent
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Lujan
McClory
McCloskey
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Macdonald
Madden
Madigan
Mahon
Matsunaga
Mazzoli
Meeds
Melcher
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Morgan
Moss
Murphy, Ill.
Murphy, N.Y.
Murtha
Natcher
Nedzi
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Passman
Patman, Tex.
Patten, N.J.
Patterson, Calif.
Pattison, N.Y
Pepper
Perkins
Peyser
Pickle
Pike
Pressler
Preyer
Price
Quillen
Railsback
Randall
Rangel
Rees
Reuss
Richmond
Rinaldo
Risenhoover
Rodino
Roe
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Ruppe
Sarasin
Sarbanes
Scheuer
Schroeder
Sebelius
Seiberling
Sharp
Shipley
Shriver
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Solarz
Spellman
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steiger, Wis.
Stokes
Stratton
Studds
Sullivan
Thornton
Traxler
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Walsh
Wampler
Weaver
Whalen
White
Whitten
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—130

Abdnor
Anderson, Calif.
Archer
Armstrong
Ashbrook
Bafalis
Bauman
Beard, Tenn.
Bennett
Bowen
Breaux
Brinkley
Broomfield
Broyhill
Burgener
Burleson, Tex.
Butler
Byron
Carter
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Collins, Tex.
Conlan
Crane
Daniel, Dan
Daniel, R. W.
Derwinski
Devine
Dickinson
du Pont

Early	Jones, N.C.	Quie
Eshleman	Jones, Okla.	Regula
Evans, Ind.	Kasten	Rhodes
Fithian	Kelly	Roberts
Flynt	Ketchum	Robinson
Fountain	Kindness	Rogers
Frey	Krueger	Rousselot
Fuqua	Lagomarsino	Runnels
Gibbons	Landrum	Ryan
Ginn	Latta	Santini
Goldwater	Levitas	Satterfield
Goodling	Long, Md.	Schneebeli
Gradison	Lott	Schulze
Grassley	McCollister	Shuster
Hagedorn	McDonald	Smith, Nebr.
Haley	Mann	Snyder
Hamilton	Martin	Spence
Hammer-schmidt	Mathis	Steelman
	Michel	Steiger, Ariz.
Hansen	Milford	Stuckey
Harsha	Miller, Ohio	Symms
Hechler, W. Va.	Montgomery	Talcott
Hefner	Moore	Taylor, Mo.
Henderson	Moorhead, Calif.	Taylor, N.C.
Hillis		Teague
Holt	Mottl	Thone
Hubbard	Myers, Ind.	Treen
Hughes	Myers, Pa.	Waggonner
Hutchinson	Neal	Whitehurst
Hyde	Nichols	Wiggins
Ichord	Pettis	Young, Alaska
Jacobs	Poage	Young, Fla.
Johnson, Colo.	Pritchard	

ANSWERED "PRESENT"—1

Maguire

NOT VOTING—28

Andrews, N.C.	Guyer	Mosher
Bell	Hébert	Riegle
Burke, Fla.	Hinshaw	Russo
Burton, John	Hungate	St Germain
Collins, Ill.	Jarman	Simon
Flowers	Jenrette	Stephens
Foley	Jones, Ala.	Symington
Ford, Mich.	Jones, Tenn.	Thompson
Fraser	Metcalfe	Waxman
Gaydos		

The Clerk announced the following pairs:

On this vote:

Mr. Thompson for, with Mr. Hébert against.

Mr. John L. Burton for, with Mr. Burke of Florida against.

Mr. St Germain for, with Mr. Hinshaw against.

Mr. Ford of Michigan for, with Mr. Guyer against.

Mr. Foley for, with Mr. Stephens against.

Mr. Waxman for, with Mr. Jarman against.

Until further notice:

Mrs. Collins of Illinois with Mr. Bell.

Mr. Jenrette with Mr. Andrews of North Carolina.

Mr. Jones of Alabama with Mr. Flowers.

Mr. Russo with Mr. Simon.

Mr. Riegle with Mr. Fraser.

Mr. Jones of Tennessee with Mr. Metcalfe.

Messrs. STUCKEY and HILLIS changed their votes from "yea" to "nay."

Messrs. ENGLISH and YOUNG of Texas changed their votes from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AMENDMENTS IN DISAGREEMENT

The SPEAKER. The Clerk will report the first amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 5: Page 3, line 13, insert:

GENERAL PROVISIONS

Section 610 under this head in the Agriculture and Related Agencies Appropriations Act, 1976, Public Law 94–122, is amended by striking "$37,452,000" and substituting in lieu thereof "$47,328,000" and by striking "$9,363,000" and substituting in lieu thereof "$11,936,000".

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 5 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

GENERAL PROVISIONS

Section 610 under this head in the Agriculture and Related Agencies Appropriations Act, 1976, Public Law 94–122, is amended by striking "$37,452,000" and substituting in lieu thereof "$42,400,000" and by striking "$9,363,000" and substituting in lieu thereof "$10,650,000".

The motion was agreed to.

The SPEAKER. The Clerk will report that next amendment in disagreement.

The Clerk read as follows:

Senate Amendment No. 6: Page 3, line 19, insert:

RELATED AGENCIES

"COMMODITIES FUTURES TRADING COMMISSION

"The limitation of $200,000 for employment under 5 U.S.C. 3109 under this head in the Agriculture and Related Agencies Appropriation Act, 1976 (Public Law 94–122), is increased to $400,000.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 6 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

"RELATED AGENCIES

"COMMODITY FUTURES TRADING COMMISSION

"The limitation of $200,000 for employment under 5 U.S.C. 3109 under this head in the Agriculture and Related Agencies Appropriation Act, 1976, (Public Law 94–122) is increased to $265,000."

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

Mr. MAHON. Mr. Speaker, inasmuch as amendments 28 through 36, inclusive, relate solely to housekeeping operations of the other body in which it is the practice of the House to concur without an amendment, I ask unanimous consent that Senate amendments 28 through 36, inclusive, be considered as read, printed in the RECORD, and that they be considered en bloc.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read as follows:

Senate amendments 28 through 36, inclusive: Page 11, insert:

SENATE

COMPENSATION AND MILEAGE OF THE VICE PRESIDENT AND SENATORS AND EXPENSE ALLOWANCES OF THE VICE PRESIDENT AND LEADERS OF THE SENATE

COMPENSATION AND MILEAGE OF THE VICE PRESIDENT AND SENATORS

For an additional amount for "Compensation and mileage of the Vice President and Senators", $181,500.

For an additional amount for "Compensation and mileage of the Vice President and Senators" for the period July 1, 1976, through September 30, 1976, $62,000.

SALARIES, OFFICERS AND EMPLOYEES

OFFICE OF THE SECRETARY

For an additional amount for "Office of the Secretary", $9,400: *Provided*, That effective January 1, 1976, the allowance for clerical assistance and readjustment of salaries in the Disbursing Office is increased by $18,762.

For an additional amount for "Office of the Secretary" for the period July 1, 1976, through September 30, 1976, $4,700.

ADMINISTRATIVE AND CLERICAL ASSISTANTS TO SENATORS

For an additional amount for "Administrative and Clerical Assistants to Senators", $26,400: *Provided*, That effective January 1, 1976, the clerk hire allowance of each Senator from the State of California shall be increased to that allowed Senators from States having a population of more than twenty-one million, the population of said State having exceeded twenty-one million inhabitants.

For an additional amount for "Administrative and Clerical Assistants to Senators" for the period July 1, 1976, through September 30, 1976, $13,200.

CONTINGENT EXPENSES OF THE SENATE

INQUIRIES AND INVESTIGATIONS

For an additional amount for "Inquiries and investigations", $1,080,000.

For an additional amount for "Inquiries and investigations" for the period July 1, 1976, through September 30, 1976, $275,000.

MISCELLANEOUS ITEMS

For an additional amount for "Miscellaneous items", fiscal year 1975, $350,000.

For an additional amount for "Miscellaneous items", $2,550,000.

For an additional amount for "Miscellaneous items", for the period July 1, 1976, through September 30, 1976, $1,275,000.

ADMINISTRATIVE PROVISIONS

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendments of the Senate numbered 28 through 36, inclusive, and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 37: Page 14, line 17, insert: SEC. 109. Subsection (b) of Public Law 94–57 is amended by adding at the end thereof the following: "In carrying out the provisions of section 3620 of the Revised Statutes, as amended by subsection (a), the Secretary of the Senate shall promulgate such rules and regulations as may be appropriate with respect to the Senate. The provisions of section 3620(b)(1) of the Revised Statutes, requiring reimbursement for any additional check sent on behalf of an employee, shall not apply in the case of an additional check sent upon the request of an employee of the Senate.".

(b) Subsection (c) of Public Law 94–57 is amended by adding at the end thereof the following: "In carrying out the provisions of section 3620 of the Revised Statutes, as amended by subsection (a), the Clerk of the House with approval of the Committee on House Administration shall promulgate such rules and regulations as may be appropriate with respect to the House. The provisions of section 3620(b)(1) of the Revised Statutes, requiring reimbursement for any additional check sent on behalf of an employee, shall not apply in the case of an additional check

sent upon the request of an employee of the House.".

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 37 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 38: Page 15, line 5, insert: SEC. 110. Effective January 1, 1976, the Sergeant at Arms and Doorkeeper may appoint and fix the compensation of the following positions in the Senate Recording Studio: an assistant director at not to exceed $32,436 per annum in lieu of a chief video engineer at not to exceed $32,436 per annum; a chief video engineer at not to exceed $26,394 per annum in lieu of an administrative officer at not to exceed $26,394 per annum; a chief film and video cameraman at not to exceed $25,440 per annum in lieu of a director of photography at not to exceed $25,440 per annum; a film and video cameraman at not to exceed $20,352 per annum in lieu of a chief sound engineer at not to exceed $20,352 per annum; a video engineer at not to exceed $24,168 per annum in lieu of an assistant video engineer at not to exceed $24,168 per annum; a chief audio engineer at not to exceed $23,214 per annum in lieu of an assistant video engineer at not to exceed $23,214 per annum; a video technician at not to exceed $18,126 per annum in lieu of a cameraman at not to exceed $18,126 per annum; an audio engineer at not to exceed $15,900 per annum in lieu of a film and radio recording engineer at not to exceed $15,900 per annum; a film and laboratory technician at not to exceed $16,536 per annum in lieu of a color film technician at not to exceed $16,536 per annum; a secretary at not to exceed $11,448 per annum in lieu of a shipping and stock clerk at not to exceed $11,448 per annum, an appointment secretary at not to exceed $13,038 per annum in lieu of a traffic manager at not to exceed $13,038 per annum; an audio engineer at not to exceed $17,172 per annum in lieu of a production assistant at not to exceed $17,172 per annum; a film and laboratory technician at not to exceed $20,352 per annum in lieu of an editor and printer at not to exceed $20,352 per annum; and an audio engineer at not to exceed $13,356 per annum in lieu of a laboratory technician at not to exceed $13,356 per annum.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 38 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 39: Page 16, line 16, insert: SEC. 111. (a) The tenth sentence of section 105 of the Legislative Branch Appropriations Act, 1976, is amended by inserting immediately after "fiscal year," the following: "and the two employees referred to in such clause (A) who are employees of any joint committee having legislative authority,".

(b) The ninth sentence of section 4 under the heading "Administrative Provisions" in the appropriation for the Senate in the Legislative Branch Appropriations Act, 1975, is amended by inserting immediately after "joint committee employees" the following: ", who are not employees of a joint committee having legislative authority,".

(c) The amendments made by this section shall become effective January 1, 1976, and no increase in salary shall be payable for any period prior to such date by reason of enactment of this section.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 39 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 40: Page 17, line 16, insert:

SEC. 112. (a) Notwithstanding any other provision of law, the Sergeant at Arms of the Senate, subject to the approval of the Committee on Rules and Administration, and the Committee on Appropriations, is authorized to lease, for use by the United States Senate, and for such other purposes as such committees may approve, all or any part of the property located at 400 North Capitol Street, Washington, District of Columbia, known as the "North Capitol Plaza Building": *Provided*, That rental payments under such lease for the entire property shall not exceed $3,375,000 per annum, exclusive of amounts for reimbursement for taxes paid and utilities furnished by the lessor: *Provided further*, That a lease shall not become effective until approved by Senate Resolution. Prior to such approval process the General Accounting Office shall examine the terms of the proposed lease and shall report to the Senate on its reasonableness, taking into account such factors as rental rates for similar space, advantages of proximity, and possible alternative arrangements. Such payments shall be paid from the Contingent Fund of the Senate upon vouchers approved by the Sergeant at Arms: Provided further, That such lease may be for a term not in excess of five years, and shall contain an option to purchase such property, and shall include such other terms and conditions as such committees may determine to be in the best interests of the Government: *Provided further*, That nothing in this section shall be construed so as to obligate the Senate or any of its Members, officers, or employees to enter into any such lease or to imply any obligation to enter into any such lease.

(b) Notwithstanding any other provision of law, property leased under authority of subsection (a) shall be maintained by the Architect of the Capitol as part of the "Senate Office Buildings," subject to the laws, rules, and regulations governing such buildings, and the Architect is authorized to incur such expenses as may be necessary to provide for such occupancy.

(c) Notwithstanding any other provision of law, the Sergeant at Arms of the Senate, subject to the approval of the Committee on Rules and Administration and the Committee on Appropriations, is authorized to sublease any part of the property leased under authority of subsection (a) which is in excess of the requirements of the Senate. All rental payments under any such sublease shall be paid to the Sergeant at Arms of the Senate and such amounts shall thereupon be added to and merged with the appropriation "Miscellaneous Items" under the Contingent Fund of the Senate.

(d) Notwithstanding any other provision of law, upon the approval of the Committee on Rules and Administration and the Committee on Appropriations, the Secretary of the Senate shall transfer by voucher or vouchers to the Architect of the Capitol from the "Contingent Fund of the Senate" such amounts as may be necessary for the Architect of the Capitol to carry out the provisions of subsection (b) and such amounts shall thereupon be added to and merged with the appropriation "Senate Office Buildings".

(e) The authority under this section shall continue until otherwise provided by law.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 40 and concurs therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 41: Page 19, line 24, insert: SEC. 113. The provisions of sections 491(c) and 491(d) of the Legislative Reorganization Act of 1970, as amended (2 U.S.C. 88b–1), shall not apply to the pay of pages of the Senate and House of Representatives during the period between the recess or adjournment of the first session of the Ninety-fourth Congress and the convening of the second session of the Ninety-fourth Congress. The pay of Senate and House pages shall continue during such period of recess or adjournment.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 41 and concur therein.

The motion was agreed to.

The Speaker. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 42: Page 20, line 8, insert: SEC. 114. Notwithstanding the provisions of section 1110 of the Legislative Branch Appropriation Act, 1976, effective January 1, 1976, the pay of pages of the Senate shall not exceed a gross annual maximum rate in excess of $9,063.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 42 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 44: Page 22, line 24, strike out: "*Provided further*, That none of the funds in this bill shall be available for salaries or expenses of any employee of the Congressional Budget Office in excess of 193 staff employees." and insert: "*Provided further*, That the Congressional Budget Office shall have the authority to contract without regard to section 5 of title 41 of the United States Code (section 3709 of the Revised Statutes, as amended)."

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 44 and concur therein with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *"Provided further,* That none of the funds in this bill shall be available for salaries or expenses of any employee of the Congressional Budget Office in excess of 193 staff employees: *Provided further,* That the Congressional Budget Office shall have the authority to contract without regard to section 5 of title 41 of the United States Code (section 3709 of the Revised Statutes, as amended).

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 46: Page 23, line 11, insert: CAPTIOL BUILDINGS

For an additional amount for "Capitol buildings", for relocation within the United States Capitol of statues contributed by States to the National Statuary Hall Collection under authority of section 1814 of the Revised Statutes, as amended (40 U.S.C. 187), $65,000, to be expended without regard to section 3709 of the Revised Statutes, as amended.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 46 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 47: Page 24, line 1, insert:

SENATE OFFICE BUILDINGS

For an additional amount for "Senate office buildings", $696,000, of which $200,000 shall remain available until expended.

For an additional amount for "Senate office buildings" for the period July 1, 1976, through September 30, 1976, $29,000.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 47 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 48: Page 24, line 12, insert:

ADMINISTRATIVE PROVISION

The third paragraph under the heading "Office of the Architect of the Capitol" and the sub-heading "Salaries" in the Legislative Branch Appropriation Act, 1960 (73 Stat. 407), as amended by section 214(p) of Public Law 90-206 (81 Stat. 638), is amended by striking out "one position" under the appropriation "Capitol Buildings" and inserting in lieu thereof "two positions" under the appropriation "Capitol Buildings".

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 48 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 49: Page 25, line 14, insert:

ADMINISTRATIVE PROVISION

The Disbursing Officer of the Library of Congress is authorized to disburse funds appropriated for the Congressional Budget Office, and the Library of Congress shall provide financial management support to the Congressional Budget Office as may be required and mutually agreed to by the Librarian of Congress and the Director of the Congressional Budget Office.

All vouchers certified for payment by duly authorized certifying officers of the Library of Congress shall be supported with a certification by an officer or employee of the Congressional Budget Office duly authorized in writing by the Director of the Congressional Budget Office to certify payments from appropriations of the Congressional Budget Office. The Congressional Budget Office certifying officers shall (1) be held responsible for the existence and correctness of the facts recited in the certificate or otherwise stated on the voucher or its supporting paper and the legality of the proposed payment under the appropriation or fund involved, (2) be held responsible and accountable for the correctness of the computations of certifications made, and (3) be held accountable for and required to make good to the United States the amount of any illegal, improper, or incorrect payment resulting from any false, inaccurate, or misleading certificate made by him, as well as for any payment prohibited by law which did not represent a legal obligation under the appropriation or fund involved: *Provided,* That the Comptroller General of the United States may, at his discretion, relieve such certifying officer or employee of liability for any payment otherwise proper whenever he finds (1) that the certification was based on official records and that such certifying officer or employee did not know, and by reasonable diligence and inquiry could not have ascertained the actual facts, or (2) that the obligation was incurred in good faith, that the payment was not contrary to any statutory provision specifically prohibiting payments of the character involved, and the United States has received value for such payment: *Provided further,* That the Comptroller General shall relieve such certifying officer or employee of liability for an overpayment for transportation services made to any common carrier covered by section 66 of title 49, whenever he finds that the overpayment occurred solely because the administrative examination made prior to payment of the transportation bill did not include a verification of transportation rates, freight classifications, or land grant deduction. (Public Law 85-53, paragraph 3, June 13, 1957, 71 Stat. 81.)

The Disbursing Officer of the Library of Congress shall not be held accountable or responsible for any illegal, improper, or incorrect payment resulting from any false, inaccurate, or misleading certificate, the responsibility for which is imposed upon a certifying officer or employee of the Congressional Budget Office.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 49 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 52: Page 28, line 17, insert:

GENERAL PROVISIONS

Section 502(b) of the Mutual Security Act of 1954 (22 U.S.C. 1754(b)), relating to the use of foreign currency, is amended by striking out "and the Joint Economic Committee" and inserting in lieu thereof ", the Joint Economic Committee, and the Joint Committee on Congressional Operations".

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 52 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 54: Page 29, line 4, insert:

CONTRIBUTIONS FOR INTERNATIONAL PEACE-KEEPING ACTIVITIES

For payments, not otheriwse provided for, by the United States for expenses of United Nations peacekeeping forces in the Middle East, $35,000,000, notwithstanding the limitation on contributions to international organizations contained in Public Law 92-544 (86 Stat. 1109, 1110).

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 54 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 59: Page 32, line 12, insert:

JAPAN-UNITED STATES FRIENDSHIP COMMISSION

JAPAN-UNITED STATES FRIENDSHIP TRUST FUND

For the purpose of implementing the Japan-United States Friendship Act (Public Law 94-118), there is appropriated to the Japan-United States Friendship Trust Fund, to remain available until expended, an amount equal to 7.5 per centum of the total funds payable to the United States pursuant to the Agreement Between Japan and the United States of America concerning the Ryukyu Islands and the Daito Islands, signed at Washington and Tokyo, June 17, 1971. Funds appropriated under title I of Public Law 94-121 for United States-Japan Friendship Activities are transferred to the Japan-United States Friendship Trust Fund for the purpose of implementing the Japan-United States Friendship Act (Public Law 94-118) and are to remain available until expended.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 59 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

JAPAN-UNITED STATES FRIENDSHIP COMMISSION

JAPAN-UNITED STATES FRIENDSHIP TRUST FUND

For the purpose of implementing the Japan-United States Friendship Act (Public

Law 94–118), there is appropriated to the Japan-United States Friendship Trust Fund, to remain available until expended, $18,000,000 of the total funds payable to the United States pursuant to the Agreement Between Japan and the United States of America concerning the Ryukyu Islands and the Daito Islands, signed at Washington and Tokyo, June 17, 1971. Funds appropriated under title I of Public Law 94–121 for United States-Japan Friendship Activities are transferred to the Japan-United States Friendship Trust Fund for the purpose of implementing the Japan-United States Friendship Act (Public Law 94–118) and are to remain available until expended.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 65: Page 36, line 4, insert:

BUREAU OF THE PUBLIC DEBT

ADMINISTERING THE PUBLIC DEBT

Of the amount provided under this head in the "Treasury, Postal Service, and General Government Appropriation Act, 1976", $677,000 shall be available for expenses of travel, notwithstanding the provisions of section 501 of the Act.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 54 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 76: Page 39, line 3, insert:

GENERAL SERVICES ADMINISTRATION

REFUNDS UNDER RENEGOTIATION ACT

For necessary expenses to carry out section 201(f) of the Renegotiation Act of 1951 (50 U.S.C. App. 1231(f)), $1,000,000, to remain available until expended.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 76 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 77: Page 39, line 8, insert:

TEMPORARY STUDY COMMISSIONS

NATIONAL COMMISSION ON SUPPLIES AND SHORTAGES

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the National Commission on Supplies and Shortages Act (Public Law 93–426), including personal services without regard to the provisions of law regulating the employment and compensation of persons in the Government service, $622,500: *Provided*, That this appropriation shall be available only upon enactment into law of authorizing legislation.

For necessary expenses for the period July 1, 1976, through September 30, 1976, to carry out the provisions of the National Commission on Supplies and Shortages Act (Public Law 93–426), including personal services without regard to the provisions of law regulating the employment and compensation of persons in the Government service, $295,000: *Provided*, That this appropriation shall be available only upon enactment into law of authorizing legislation.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 77 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the last amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 82: Page 42, line 14, insert: SEC. 205. (a) It is the sense of Congress that the President, through the Director of the Office of Management and Budget, shall take immediate steps to restrain the inflationary impact of Federal expenditures and to conserve the use of energy by ordering a reduction of Federal travel expenditures not to exceed 10 percent; and

(b) These steps shall include such provisions as are necessary to insure that such reductions are allocated so as not to disrupt the provision of vital governmental services or the organized troop movement of military personnel; and

(c) The President is requested to submit to Congress, within 30 days of adoption of this section by the Senate and the House of Representatives, a report outlining his actions.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House recede from its disagreement to the amendment of the Senate numbered 82 and concur therein.

The motion was agreed to

A motion to reconsider the votes by which action was taken on the conference report and the several motions was laid on the table.

GENERAL LEAVE

Mr. MAHON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material and tabulations, on the conference report on the bill (H.R. 10647), making supplemental appropriations for fiscal year 1976 and for the transition period.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

CONFERENCE REPORT ON S. 622, ENERGY POLICY AND CONSERVATION ACT

Mr. STAGGERS. Mr. Speaker, I call up the conference report on the Senate bill (S. 622) to increase domestic energy supplies and availability; to restrain energy demand; to prepare for energy emergencies; and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

POINT OF ORDER

Mr. GOLDWATER. Mr. Speaker, I make a point of order.

The SPEAKER. The gentleman from California will state his point of order.

Mr. GOLDWATER. Mr. Speaker, I make a point of order against title V, part B.

The SPEAKER. The Chair would request that the gentleman withhold his point of order until we have had the title of the bill read by the Clerk.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

Mr. TEAGUE. Mr. Speaker, I reserve a right to object.

The SPEAKER. The gentleman from Texas (Mr. TEAGUE) reserves a right to object.

The Chair states that the right of the gentleman from California (Mr. GOLDWATER) will be protected.

Mr. TEAGUE. Mr. Speaker, I reserve the right to object in order to ask the gentleman from West Virginia (Mr. STAGGERS), the chairman of the committee, a question.

CALL OF THE HOUSE

Mr. SYMMS. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Without objection, a call of the House is ordered.

There was no objection.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 784]

Addabbo	Fraser	O'Neill
Alexander	Gaydos	Pike
Ambro	Giaimo	Rees
Andrews, N.C.	Gibbons	Riegle
Badillo	Gude	Rosenthal
Beard, R.I.	Guyer	Runnels
Bell	Harsha	Russo
Bonker	Hastings	Ryan
Brown, Mich.	Hébert	St Germain
Burke, Fla.	Hinshaw	Scheuer
Burton, John	Hungate	Schneebeli
Burton, Phillip	Ichord	Shuster
Carney	Jarman	Simon
Collins, Ill.	Jenrette	Skubitz
Conyers	Jones, Tenn.	Steiger, Ariz.
Davis	Karth	Stuckey
Derrick	Kastenmeier	Symington
Diggs	Keys	Thompson
Dodd	Landrum	Udall
Drinan	Leggett	Ullman
Duncan, Oreg.	McDade	Vander Veen
Edgar	Mahon	Vigorito
Edwards, Calif.	Mazzoli	Waxman
Esch	Melcher	Wiggins
Eshleman	Metcalfe	Wilson, C. H.
Flowers	Meyner	Wolff
Foley	Mikva	Yatron
Ford, Mich.	Mineta	
Fountain	Mitchell, Md.	

The SPEAKER. On this rollcall 349 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

CONFERENCE REPORT ON S. 622, ENERGY POLICY AND CONSERVATION ACT

The SPEAKER. The gentleman from Texas (Mr. TEAGUE) has reserved the right to object.

Mr. TEAGUE. Mr. Speaker, I reserved the right to object in order to ask a question of the gentleman from West Virginia, the chairman of the committee.

Mr. Speaker, I would like to ask the gentleman from West Virginia a question with respect to the inclusion in the conference substitute for S. 622, of provisions relating to application of advanced automotive technology. These provisions establish a program in the Department of Transportation to develop new automotive technologies and guarantee loans for these purposes. These provisions came from title II of S. 1883, which was referred to the Committee on Science and Technology as H.R. 9174. Is the inclusion of these provisions in the conference report an assertion of jurisdiction by the Interstate and Foreign Commerce Committee over the subject of energy or environmental research and development?

Mr. STAGGERS. If the gentleman will yield, I will be very happy to say very emphatically that we have no intention of ever invading the authority of any other committee. By this being in the bill is one of the things we were trying to work out in the energy bill with the other body. We tried to work out something that would make it effective in regulating gas and oil at this time; but I can say to the gentleman that it sets no precedent.

Mr. TEAGUE. Would the gentleman comment on the oversight provisions on this?

Mr. STAGGERS. It would be within the gentleman's committee's jurisdiction.

Mr. TEAGUE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

Mr. BROWN of California. Mr. Speaker, I reserve the right to object.

The SPEAKER. The Chair will protect all points of order, but would like to get all the reservations first. The gentleman from California has reserved the right to object.

Mr. BROWN of California. Mr. Speaker, I make this reservation hopefully to enter into a colloquy with the gentleman from Michigan (Mr. DINGELL), which I hope will be helpful in regard to this legislation.

The gentleman from Michigan (Mr. DINGELL) knows the high regard I have for the gentleman's concern with energy matters. I received last week a couple of "Dear Colleague" letters from the gentleman, one of them announcing the support that had been obtained for this bill. Just as a matter of interest, I wonder if that support includes the editorial support of the Wall Street Journal?

Mr. DINGELL. If the gentleman will yield, I am not sure I understand either the gentleman's reservation or the gentleman's question, if the gentleman would help me.

Mr. BROWN of California. This is merely laying the foundation for some subsequent questions, if I may.

That "Dear Colleague" letter also announced the fact that the energy bill would be on the floor in the near future. I wonder if the gentleman would care to comment as to whether or not this is the only energy bill that is going to be on the floor, or whether there are other energy bills from other committees that also have some claim on the attention of this House in constructing an energy policy of the United States.

Mr. DINGELL. Mr. Speaker, if the gentleman will yield, this is one of possibly several that will be before the House, one from the Committee on Interstate and Foreign Commerce and one that passed the House from the Committee on Ways and Means. There may be other related matters coming before the committee.

Mr. BROWN of California. I was confused by the term "the energy bill," whether the gentleman means there were no other energy bills available to us.

The gentleman also sent out another "Dear Colleague" letter in regard to the ERDA bill, which the gentleman indicated that the gentleman was opposed to that bill and specifically referred to the securities and exchange implications invoved in section 103, the loan guarantee program. The gentleman made a number of assertions in that "Dear Colleague" letter with regard to loan guarantees, that when the full faith and credit of the United States was placed behind it, that it was no longer subject to the jurisdiction of the SEC.

Mr. Speaker, because I want to understand how to differentiate between the loan guarantee provision in that bill and those in the gentleman's own bill, would the gentleman explain how it is that the loan guarantee program, which is about $1 billion in this conference report, manages to avoid the difficulties in the other loan guarantee provision in the ERDA bill.

Mr. DINGELL. Well, there are several things. First of all, this is not $1 billion.

Second, it is three-fourths of $1 billion.

Mr. BROWN of California. That is just for the coal mining, that does not include the automotive section.

Mr. DINGELL. Second of all, the Comptroller General has full authority to engage in careful audit under this $1 billion of the ERDA bill.

I agree with the gentleman, it is a perfectly valid point, that wherever the question of loan guarantees is involved, that under the Securities and Exchange Act there is an exemption for the issuance of those securities.

That is something which I regard as being very bad and which I intend to correct. It is something upon which my staff is now commencing to draft all the necessary documents to correct that situation.

Mr. BROWN of California. In other words, the gentleman is stating that certain exemptions from SEC requirements apply to the loan guarantees in his bill as well as to the loan guarantees in the ERDA bill.

Mr. DINGELL. I think the gentleman ought to know that in the instance of the loan guarantees under S. 622, the administrator will prescribe and very carefully set out such circumstances setting forth safeguards requiring completing of records and disclosing——

Mr. BROWN of California. If I may interrupt, those same provisions were in the ERDA bill also.

Mr. DINGELL. I am not sure they were. I have reason to think they were not, but the gentleman may be correct.

Mr. BROWN of California. In connection with the debate on the ERDA bill last Thursday, the gentleman referred to loan guarantees over and over again as "giveaways." Has the gentleman come to a different point of view with regard to loan guarantees in his own bill, or is there something which has happened that has changed them?

Mr. DINGELL. I say to the gentleman that on the basis of the committee's consideration, these are highly meritorious.

Mr. BROWN of California. Will the gentleman give me the reasons for this so that I may more carefully draft legislation?

Mr. DINGELL. I refer the gentleman to pages 7 and 8 of the conference report, where he will find the reason. I can read it to the gentleman.

Mr. BROWN of California. I may want the full conference report read if the gentleman does not care to explain it to me.

Mr. ANDERSON of Illinois. Mr. Speaker, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. Mr. Speaker, I have been very interested in the colloquy between the gentleman from California and the gentleman from Michigan, because I too was present last Thursday when, in section 103 of that bill, we heard loan guarantees loudly attacked as ripoffs and giveaways. I see now with some astonishment that we now have a conference report which says that a mine operator—not of a new mine, but of an existing mine, which was not the language in the bill passed by this House previously—an existing mine that has revenues up to $50 million per year and produces up to 1 million tons of coal, is eligible under the $750 million program of loan guarantees in this bill.

I wonder if someone could explain why what was so bad last Thursday has suddenly become very good in the form of loan guarantees in this bill?

Mr. BROWN of California. I will be happy to give the gentleman from Michigan an opportunity to respond to the question.

Mr. DINGELL. Mr. Speaker, I think it ought to be pointed out for the benefit of the gentleman from California and the gentleman from Illinois, who protest this quite loudly that this precise provision was considered by the House. I am delighted that they have finally read it; I rejoice. They did have an opportunity to consider this. They did have an opportunity to amend it. They did have a right to ask these questions at a time earlier. I am delighted that they are asking them now. I rejoice. I think it is very helpful. I would have been glad to answer the same way.

Mr. ANDERSON of Illinois. I challenge the gentleman from Michigan to show me in H.R. 7014, as passed by the House

of Representatives, where there was any provision extending loan guarantees to the operator of an existing mine. It is my understanding that the provision as it passed the House related solely and exclusively to newly opened mines.

Mr. DINGELL. The answer, for the benefit of the gentleman, was that it was to reopen existing mines. There have been certain minor clarifications of that point with regard to the conference report now before us.

Mr. DENT. Mr. Speaker, will the gentleman yield?

Mr. BROWN of California. I now yield to the gentleman from Pennsylvania.

Mr. DENT. Mr. Speaker, I would like to know why and how we have cut the rollback and that we are reducing, putting into the rollback price of $7.66 per barrel, the stripper mines that average in the entire country not more than three barrels a day. They are already exempted. Small operators are exempted and are earning the $11.

Some of our best oil in the whole country and in the world is Quaker oil, and most of that is produced by pump strippers that only produce anywhere from a quarter of a barrel to four or four and a half barrels a day. How do we justify that?

Mr. DINGELL. I am not sure whether the gentleman is asking me a question or making a speech. If he has a question, I would like to respond to it.

The fact of the matter is that we are transgressing on the time of the gentleman from California, but for now we have fixed a $7.66 overall price for crude petroleum. What we are accomplishing in this section is to permit the President broad discretion in terms of fixing prices with regard to stripper wells, with regard to old crude, with regard to new crude, with regard to a few special categories of crude such as off-shore production, production from the North Slope in Alaska, production from the Gulf of Alaska and other high cost oil.

Mr. DENT. If the gentleman will yield back, I understand what the word "average" means, and I know that the gentleman is taking into consideration all the different types of production in different areas. But what is going to be the price of a stripper barrel of oil under this Act? What is the price going to be?

Mr. DINGELL. Conglomerate, or the overall, price of crude petroleum products is $7.66.

Mr. DENT. And that means they are reducing that to about $4.00 a barrel?

Mr. DINGELL. It means, on an overall pricing reduction, less than that. About $3.50.

Mr. DENT. Three dollars and fifty cents a barrel.

Mr. BROWN of California. May I continue with my colloquy with the gentleman from Michigan (Mr. DINGELL)?

Mr. DENT. Yes; I would like some time later.

Mr. BROWN of California. As I said, I am trying to help resolve some of these questions, in the hope that it will expedite and facilitate the consideration of the bill.

With regard to the loan guarantees which the gentleman described as a ripoff, I am sure the gentleman will be able to adequately explain this distinction to our colleagues here. I am looking forward to hearing a more detailed explanation. But I would like to look specifically at the loan guarantee provisions having to do with the advanced automotive program.

Mr. DINGELL. If the gentleman will yield, for the benefit of the gentleman from California, I have consistently voted against that in conference.

Mr. BROWN of California. I appreciate that.

Mr. DINGELL. I never supported that at all.

Mr. BROWN of California. What I want to ask the gentleman is this: In his debate on Thursday last, with regard to ERDA, he referred to section 103, loan guarantees, as, I think, dripping with patent problems, for example. Yet in reading the report I note that the patent provisions for the automotive section of this bill are the same as are applicable in the ERDA bill which the gentleman referred to as dripping with patent problems.

I wonder if the gentleman would care to explain to the Members of the House how he has cut out this dripping that he referred to last Thursday.

Mr. DINGELL. For the benefit of the gentleman from California (Mr. BROWN), in regard to the language of the advanced automotive technology section, the bill now before us requires mandatory licensing of patents. It incorporates section 9, Federal Nonnuclear Research and Development Act of 1974. It also goes further.

Mr. BROWN of California. Does it not say that the patent provisions are essentially the same in this bill as in the EREDA bill? Is not that language used there?

Mr. DINGELL. It is the same as in the Federal Nonnuclear Research and Development Act of 1974.

Mr. BROWN of California. Which is the provision which was in the ERDA act.

Mr. DINGELL. The gentleman is free to make that statement.

Mr. BROWN of California. Let me raise another point having to do with this. Of course, the gentleman has made a great point of who the beneficiaries were of the loan guarantees in section 103, and he mentioned the huge octopuses of the oil industry. I would like to have the gentleman tell me who would be the beneficiaries in the loan guarantee section in this bill.

Mr. DINGELL. In my judgment, it would be the public corporations.

Mr. BROWN of California. What corporations would the gentleman think would be interested and capable of initiating an advanced automotive program with loan guarantees? Would it be General Motors, for example?

Mr. DINGELL. The bill requires, if the gentleman will permit, that before anybody can get a guarantee they have to show that this will go to small businesses.

Mr. BROWN of California. Mr. Speaker, will the gentleman repeat that? They would have to show what?

Mr. DINGELL. They have to show that they cannot get the credit elsewhere, which means that this would have to go to small businesses.

Mr. BROWN of California. No, because that provision is in the coal loan guarantee provision, which is restricted to those small businesses doing less than $50 million worth of business a year. There is no similar provision in the automotive loan guarantee provision.

Mr. DINGELL. For an automotive loan guarantee they would have to show they could not get credit elsewhere.

Mr. BROWN of California. Would it be the gentleman's opinion that General Motors in some area under this provision would be eligible for loans if there were no other companies that could provide the service?

Mr. DINGELL. I must confess to the gentleman that I suppose if General Motors could show that there were no other alternative, that is possible, if they could not get credit somewhere else.

Mr. BROWN of California. Mr. Speaker, the ERDA bill, under specific provisions, limits companies getting loan guarantees to American-owned companies. Is there any similar provision in this bill?

Mr. DINGELL. The answer is that there is not.

Mr. Speaker, I want to recall for the benefit of the gentleman from California that I have never supported this provision.

Mr. BROWN of California. Mr. Speaker, the gentleman is going to be supporting it on the floor here, I presume?

Mr. DINGELL. I am supporting the whole conference report.

Mr. BROWN of California. So Toyota of Volkswagen would be eligible for loan guarantees under this provision?

Mr. DINGELL. Mr. Speaker, if the gentleman will yield further, the answer to that question is that if DOT desired to have that happen, that would be so. I would assume they would not, and I think the legislative history here is going to reflect clearly that that would not be advisable.

Mr. BROWN of California. Mr. Speaker, I want to thank the gentleman for his responses. I am sure they will be helpful in getting additional support for the bill.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

Mr. DENT. Mr. Speaker, further reserving the right to object, I just want to clarify something.

I think that it is going to be a very difficult thing for any Member to explain the action here when we refuse a guaranteed loan to gasify and liquefy coal, which are products that are needed in this country, and yet we turn around and we see the very Members who fought that proposal on the floor are now asking us to give guaranteed loans for $750 million to produce more coal.

What are we going to do with the coal? There is not a thing we are going to be able to do with that coal, because there is coal above ground now; there is mined coal above ground in many areas of the country. Unless we get another use for that coal, I cannot see what we are going to do with it.

Here we are trying to get money to guarantee production of coal that we do not need, and we have not provided one incentive to anybody to go into the gasification and liquefaction of coal.

If we would say we would advance $750 million to anyone who will gasify coal, not on an experimental basis but on a production basis we would be doing something for our country. There are at lease seven processes ready now and in operation in certain areas of this country and in the world.

Yet we are talking about putting money up for experimentation. We are talking about foolishly spending money, money to be thrown away so that the patents are not held by any one entity, the real need is for doing something no matter who or where it is done so long at the Government holds the reins on cost. This cannot be used and should not be used to open new coal mines when we do not need all the coal we have now. What we need is a use for the coal that we do have now.

Mr. McCORMACK. Mr. Speaker, will the gentleman yield?

Mr. DENT. I yield to the gentleman from Washington.

Mr. McCORMACK. I thank the gentleman for yielding.

I would like to say how important the point is that he is making. Last week when we had the ERDA authorization bill before us, with loan guarantees for demonstration programs, a major portion of that package was for coal liquefaction, coal gasification and coal desulfurization; the cleaning up of coal so that it can be used.

That provision, under the leadership of the gentleman from Michigan (Mr. DINGELL) was defeated by this body, and so we have no such program in this country today.

Now under the loan guarantee program we have a suggested amount of $750 million to guarantee up to 80 percent for existing mines to mine high-sulfur coal. There is no requirement here that it be low-sulfur coal.

Mr. DINGELL. Mr. Speaker, if the gentleman from Pennsylvania will yield, that is not so.

Mr. McCORMACK. Mr. Speaker, the committee represents that the money should be used only for low-sulfur coal, but according to the words of the report, the money may also be used for high-sulfur coal, because the language in the conference report removes the restraints that were in the House bill.

So the conference report, as it comes to us today, provides 80 percent for mining high-sulfur coal, even in existing mines, and this follows the action last Thursday by the very Members who are sponsoring this bill had defeated the program to clean up the coal.

Mr. DENT. Mr. Speaker, I thank the gentleman for his contribution.

Mr. CARTER. Mr. Speaker, will the gentleman yield?

Mr. DENT. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Speaker, I thank the distinguished gentleman for yielding to me.

I will say that I am in thorough agreement with the gentleman. We have an over-production of coal, an oversupply of coal all through eastern Kentucky at least, and I am familiar with that.

We need to do something with it. We do not need to open more mines. We need gasification and liquefaction of coal so that we can be independent of the Arab and OPEC nations.

Mr. Speaker, I thank the distinguished gentleman from Pennsylvania for yielding.

Mr. DENT. Mr. Speaker, let me tell the Members of an incident that happened a few weeks ago, and Members of Congress now on the floor were in Iran when it happened.

There was a discussion with the Shah of Iran and Members of Congress. The Shah of Iran announced to this group that Iran had enough oil, at the present rate of consumption, for 30 years. He said they intended to use every gallon of oil they had to sell to the United States and to the industrial nations, but in the meantime, with excess profits made during that period of 30 years, they would build a nuclear-powered grid that would provided them with power on into eternity.

Here we are with the greatest resources in the whole world and with the cheapest way to produce energy. We are sitting here, and all we are doing is talking about defeating every proposition that comes before us to try to do something about gasification and liquefaction.

We are already gasifying coal. U.S. corporations have build seven or more plants all around the world. We are and have been producing gas from coal since I was a boy of 7 years of age. One new plant under construction at a cost of $1.4 billion in a foreign country, American designed and to be American built, it will produce 40 percent of all the gas, oil, greases, and waxes required in a certain country with many millions of people, and here we are sitting here talking about digging coal.

There is not a single coal operator I know who is worried about the money. What he is worried about is what he is going to do about the coal he is digging now and whether he can do something about liquefying coal or do something about our gas and oil energy that we require and will require.

I stated to this House 3 years ago, and I repeated it the other day, that we will never proceed to the liquefaction and gasification of coal until this country takes part of the risk in guaranteeing the loans. There is no way that any lending body is going to lend money to anybody to go into a situation where there are two kinds of problems; that is, first, whether or not we will really be able to produce that fuel at a price to compete with Russian gas that will soon be pumped all over the world, and with oil coming from the Mideast. The second thing is whether we are going to produce it in quantity enough for the needs of this country and stay in competition with OPEC and still pay the high interest cost for loans without Government guarantees.

Therefore, if these risks are set aside or ignored and we are talking about the cheapest process we know, and that industrial gas production process, I believe—costing about $300 million plus about 9.5 to 10 percent interest per year for 20 years, that particular facility will cost $600 million. Who is going to lend that kind of money with that kind of interest rate unless there is a Government guarantee?

We have had to guarantee every breakthrough in this country for transportation, for navigation television and other major fuel breakthroughs. We have had to do something either by direct giveaways by the Government or through loan guarantees.

Mr. Speaker, we cannot break through the greatest crisis this country has had in its entire lifetime. Even if we have had to pay $1 a quart for oil, or $1 a gallon of gasoline.

That is not the crisis, Mr. Speaker, the crisis is this, no matter how much money we have, we won't have the product to sell or buy. Let us quit pussyfooting about this thing on energy and talking about consumer-gouging. The biggest gouge is when we in this Nation have to buy our oil from foreign sources, we in this Nation apply a $2 tax against a price that is already costing the American people a phenomenal amount.

I do not know what anybody calls it, but we are paying $2 more than the Arabs are charging us for the oil that comes into this country. If we put the tariff on the things we need and then we take tariffs and customs duties and surcharges off of things we do not need we are gouging the American people and hurting our jobs. Someone is crazy, and I am sure I am not that one.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

Mr. OTTINGER. Mr. Speaker, reserving the right to object, I was one of the first opponents of the $6 billion loan guarantee for coal gasification and for development of oil shale the other day.

I would like to point out that there are major differences between the provision here and the provision there.

First of all, this measure is environmentally sound. We ought to be encouraging the developing and burning of low sulphur coal. It is much more energy efficient to burn the coal than it is to gasify it or liquify it and then sell it. As a matter of fact, there may be no energy gain at all from the liquifaction or the gasification of coal. The carcinogenic by-products of production of synthetic fuels are inapplicable here.

Secondly, the guarantee limit here is $750 million as opposed to $6 billion and that is a lot of difference.

Thirdly, this is restricted to small or relatively small companies. There are adequate safeguards. It cannot go to any company that has a gross revenue in excess of $50 million in a calendar year or which produces more than 1 million tons of coal a year or more than 300,000 barrels of oil per year or own an oil refinery. No guarantee may exceed $30 million. So we are not subsidizing the gigantic corporations as was the synfuels case. These are not the same kind of antitrust law problems and the problems of the concentration of power in the big-

gest energy companies in the world in connection with this guarantee.

Fourthly, deep mining of coal is a proven technology which is readily marketable and for which no price supports would be required. Synfuels were so unmarkable that the administration proposed legislation for $4.5 billion price supports to make them salable and make the $6 billion program viable.

We desperately need new supplies of low sulfur coal in the East. This provision will help provide them. It will help obtain the use of our vast resources of low sulfur coal in the East.

The gentleman from Washington (Mr. McCormack) has indicated this is not restricted to low sulphur coal but I would like to point out that it is, in effect, because in section 102(b)(1)(D) it is restricted to a person who "has obtained a contract for sale or resale of coal to be produced from such mine to a person who the Administrator of the Environmental Protection Agency certifies will be able to burn such coal in compliance with all applicable requirements of the Clean Air Act." Also, pursuant to section 102(b)(3), at least 80 percent of the guarantees must go to producers of low sulfur coal.

Mr. BROWN of California. Mr. Speaker, will the gentleman yield on that point?

Mr. OTTINGER. I yield to the gentleman from California.

Mr. BROWN of California. Does the gentleman from New York know of anything that would prevent a powerplant from burning high-sulfur coal that would meet the requirements the gentleman has just indicated?

Mr. OTTINGER. That is perfectly all right if they can meet the Clean Air Act standards. I said that the effect of this is restricted to low-sulfur coal.

Mr. BROWN of California. No, it is not.

Mr. OTTINGER. It is not technically so restricted if somebody wants to buy the high-sulfur coal and put in the necessary stack precipitators and the other equipment needed so as to meet the requirements of the Clean Air Act and, if that happens, it is all right because it has the effect of using coal in the most economical and most energy-efficient way.

Mr. BROWN of California. Does the gentleman from New York know of anything that insures that a small coal mine is environmentally safe and sound and has no adverse economic or social impact upon the community in which that coal mine has been located? It so happens that most of the serious environmental problems that face certain portions of this country stem from coal mining, where the social and economic fabric of a community has been ruined by the operation of small coal mines. Is there anything in this legislation comparable to what was in the ERDA legislation which could prevent this kind of a thing from happening?

Mr. OTTINGER. I would point out to the gentleman from California that most of the low sulfur coal is subjected to being mined in deep coal mines and thus avoids the environmental problems that the strip mining and high sulfur coal mining has. Because 80 percent of the loans outstanding under this provision do have to be low sulfur coal in order to meet the requirements that exist within this act and that the Clean Air Act provisions must be met, these problems should not arise. Also, guarantees may only go to companies which comply with the Federal Coal Mine Health and Safety Act.

Mr. BROWN of California. Since the gentleman from New York seems to be defending the loan guarantee provisions of this bill, or this conference report, as being limited to the small developer, and, in the case of coal you have defined small as $50 million in gross annual revenues, what does the gentleman from New York have to say in defense of the provisions having to do with loan guarantees for the advance automotive development that could apparently go to both Toyota and General Motors?

Mr. OTTINGER. That disturbs me a great deal more. The chairman said that he did not support that in the conference; it was something he had to take in compromise with the Senate. It was also of concern to me, so much so that I attended the conference to express my concern and was told this is a compromise provision with the Senate, heavy research and development responsibilities with EUDA and, giving production responsibilities to the Department of Transportation.

Mr. BROWN of California. Would the gentleman be willing to strike this from the bill and send it back to conference, then?

Mr. OTTINGER. I think, as in any conference, we have to take some things we do not like, and we get some things we do like. This is something I do not particularly like.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia (Mr. Staggers)?

PARLIAMENTARY INQUIRY

Mr. ANDERSON of Illinois. Mr. Speaker, reserving the right to object, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. ANDERSON of Illinois. I address the Chair with the following parliamentary inquiry: At which point would it be in order to offer or make a point of order against section 102 of the conference report?

The SPEAKER. If objection to the reading of the statement is not made, or at any time prior to reading the statement. The Chair has promised he is going to recognize the gentleman from California first on that issue, either now or at that point.

Mr. ANDERSON of Illinois. Mr. Speaker, if I still have the floor, I make a point of order against section 102 of the conference report.

The SPEAKER. The gentleman will not be recognized because there is a unanimous-consent request pending.

Mr. ANDERSON of Illinois. May I reserve a point of order against that section?

The SPEAKER. The gentleman's rights will be protected, but the Chair has already promised the gentleman from California that he would recognize him first on his point of order.

Is there objection to the request of the gentleman from West Virginia (Mr. Staggers)?

Mr. BROWN of California. Reserving the right to object, Mr. Speaker I reserve the right to object to inquire further with regard to the scope of the conference report and the degree to which it conforms to rule XXVIII, clause 1. I call the attention of either the chairman of the committee or the chairman of the subcommittee to the statement in the report having to do with sections 531 and 541 which state, in one sentence, that the provisions follow the House language.

The question that I have is does that mean that they are identical to the House provision? Does that mean that they are the same except for minor technical differences, or are there in fact any substantial differences in these two particular sections of the conference report?

Mr. DINGELL. Mr. Speaker, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from Michigan.

Mr. DINGELL. I thank the gentleman for yielding.

I am not quite sure which sections the gentleman is referring to. The gentleman said sections 531 and 541. Is the gentleman referring to section 521, or 551, or 531, or 541?

Mr. BROWN of California. I am referring to the provisions which have to do with congressional review, which are in section 551.

Mr. DINGELL. That is section 551 the gentleman is referring to.

Mr. BROWN of California. And the other section on the preceding page having to do with the termination of certain programs. I believe that is section 531.

Mr. DINGELL. If the gentleman would yield further, what this does is recognize that the Senate language and the House language both were similar in character, but the language that was brought back by the conferees essentially is the language of the House bill, at least in substance. There are technical differences and technical changes which were adopted to conform it to the rules of the House.

Mr. BROWN of California. I understand that the conference report has dropped the definition of any energy action. The gentleman is, therefore, defining this as merely a technical action?

Mr. DINGELL. It is defined in the conference report.

Mr. BROWN of California. No; the definition of an energy action is nowhere defined. It was in the House bill when it went to the Senate, but that provision was dropped for the conference report.

Mr. DINGELL. I thank the gentleman for that advice.

Mr. BROWN of California. Is it the gentleman's view, then, that that is purely a technical matter and that the report in that respect does conform to the requirements of clause 1, rule XXVIII?

Mr. DINGELL. Let me read the language of section 551 for the benefit of the gentleman:

For purposes of this section, the term "energy action" means any matter required

to be transmitted or submitted to the Congress in accordance with the procedures of this section.

Mr. BROWN of California. It dropped the previous definition.

Mr. DINGELL. I am reading the language of the conference report on page 111.

Mr. BROWN of California. I am merely stating that this leaves this wide open as to what an energy action is.

Mr. DINGELL. No. It is our energy actions which were submitted to the Congress in connection with the actions of the President taken under the bill.

Mr. BROWN of California. If it is submitted by the President, it can be anything then?

Mr. DINGELL. This is where the provisions of the act say that the President must make the submission pursuant to the act.

Mr. BROWN of California. But in the bill as it passed the House the nature of those energy actions was circumscribed by certain definitions. In the conference report it no longer is.

Mr. DINGELL. It is my judgment we have not changed that very much.

Mr. GOLDWATER. Mr. Speaker, I wish to make a point of order.

Mr. WAGGONNER. Mr. Speaker, I reserve the right to object.

The SPEAKER. The Chair is doing his best to defer to the gentleman from California and to be fair. We have had only one speaker on the Republican side and the Chair wants to be fair to both sides.

The gentleman from Louisiana has reserved the right to object and the Chair recognizes the gentleman from Louisiana for that purpose.

Mr. WAGGONNER. Mr. Speaker, reserving the right to object, I thank the distinguished Speaker and I would like to ask the distinguished gentleman from West Virginia (Mr. STAGGERS) or the gentleman from Michigan (Mr. DINGELL) with respect to section 547 having to do with patents and advanced automobile technology, how this differs from the bill which passed the House earlier this year in H.R. 7014. Admittedly we gave to the Federal Government, the Secretary of Commerce certain authority.

Mr. DINGELL. Mr. Speaker, if the gentleman will yield; First, it is not in the House bill; second, it is in the Senate bill; and third, the language we have brought back to the House is a much narrower version than that which was in the Senate bill.

I wish to reiterate to my colleagues that I opposed that particular provision in the conference.

Mr. WAGGONNER. I understand that the gentleman opposes it but he is here supporting it today, so we have to deal with it on that basis. We were not party to the conference.

The gentleman added this or the conferees added this as a result of a conference agreement. Section 547 has to do with patents and it says:

"(b)(1) Whenever the Secretary determines, on his own motion or upon application of any person and after opportunity for interested persons to present views, that—

Mr. Speaker, just to shorten it, it continues that in the interests of the United States after a hearing a Federal court can take any or all patents having to do with advanced automobile technology away from private individuals, away from private corporations in this country and give title to these patents to the Federal Government.

This is a situation somewhat similar to that which we faced with respect to section 103 and to a lesser degree with respect to section 102 in consideration of the ERDA conference report just last week.

One of my fears, and I felt it was real and it is even more so in my opinion here, was that at some point in time some successor to the Office of the Secretary to whom I refer would deem it, maybe justifiably but maybe without any foundation whatever, in the best interests of the United States to go to court, or at the urging of some unknown individual, and take over these patent rights which protect advanced automobile technology.

Now how is the private sector going to be protected under the provisions of this conference agreement?

Mr. DINGELL. Mr. Speaker, will the gentleman yield?

Mr. WAGGONNER. I yield to my good friend the gentleman from Michigan.

Mr. DINGELL. Mr. Speaker, this is simply from 28 U.S.C. 1496 under which contractors may use patents in order to conduct Government-financed research and it is extended slightly so that it may be used in this instance.

Then in conclusion, the users thereof must pay to the holder of the patent an appropriate payment for the use therein.

Mr. WAGGONNER. Will the gentleman from Michigan tell me where the Government is going to get this technology and this patent information? What does the Government have in the way of capability at the present time in technology that the private sector does not have?

Mr. DINGELL. With respect to advanced automotive technology?

Mr. WAGGONNER. Absolutely.

Mr. DINGELL. That is the whole purpose of the program.

Mr. WAGGONNER. That is the purpose, but what does the Government do now?

Mr. DINGELL. The purpose of the program is to generate new technology.

Mr. WAGGONNER. In other words, we are going to build an in-house Government ability to develop that technology?

Mr. DINGELL. No, that is not so. The purpose is to develop a total capability in the Nation to do this, to generate new technology.

Mr. WAGGONNER. That will require a considerable in-house capability on the part of the Federal Government and they will have to hire people to do what the bureaucrats cannot do. They are of a necessity going to hire them from the automotive people.

Mr. DINGELL. I think I should point out, if the gentleman will yield further, there is at present considerable capability in the Government, in the Environmental Protection Agency. I am not saying this is overall a necessary thing for this piece of legislation. I opposed this in the conference.

Mr. WAGGONNER. The gentleman from Michigan keeps repeating the fact that the gentleman opposed this in conference. Is the gentleman saying that if a motion was made to strike, that the gentleman would support it?

Mr. DINGELL. I did not say that.

Mr. WAGGONNER. Then the gentleman really does support it?

Mr. DINGELL. I am fully capable of enunciating my own views.

Mr. WAGGONNER. I am trying to see which side of the fence the gentleman is on. I think the gentleman is on both sides.

Mr. DINGELL. I support the conference report.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The SPEAKER. The Chair recognizes the gentleman from California (Mr. GOLDWATER).

POINT OF ORDER

Mr. GOLDWATER. Mr. Speaker, a point of order.

The SPEAKER. The gentleman will state it.

Mr. GOLDWATER. Mr. Speaker, I make a point of order to that part of section 301 which adds to the new motor vehicle improvements and cost saving account a new title V, part B, entitled "Application Advanced Automotive Technology."

My point of order is that it is nongermane, pursuant to clause 4, rule XXVIII.

Part B of title V was not in the House bill, as passed in H.R. 7014, but it was in the Senate version and it is in the conference report.

If the section had been offered as an amendment on the House floor, it would have been subject to a point of order as nongermane. Hence, it is subject to a nongermaneness point of order now under rule XXVIII, clause 4.

May I point out to the Speaker that the automotive R & D part of title V is wholly unrelated to the oil pricing and conservation thrust of the bill. Besides, the Science and Technology Committee has jurisdiction of all nonnuclear energy R. & D. matters, and this is an R. & D. incentive program which clearly falls in that jurisdiction.

The original Senate version of section 546 was contained in title II of the Senate bill (S. 1883). H.R. 9174 was introduced on July 31, 1975, by the gentleman from Washington (Mr. MCCORMACK) and was referred to the Committee on Science and Technology. H.R. 9174 basically included all of title II of the Senate bill (S. 1883), specifically the loan guarantee provision. The committee jurisdiction was positively established by that referral.

Mr. Speaker, I insist on my point of order.

PARLIAMENTARY INQUIRY

Mr. STAGGERS. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. STAGGERS. Mr. Speaker, my parliamentary inquiry is that I had asked unanimous consent that the statement

on the part of the managers be read in lieu of the report.

Mr. Speaker, I would like to go through with that before any other unanimous-consent requests or any other points of order are made against the bill. It does not jeopardize any point of order and then I would be glad to answer any questions.

The SPEAKER. The Chair had asked whether there was any objection to the request and there was no objection. It was so ordered.

Mr. STAGGERS. So, Mr. Speaker, it is now considered as read?

The SPEAKER. The request that the statement be read in lieu of the report has been granted. It does not jeopardize any point of order.

Mr. GOLDWATER. Mr. Speaker, I yield to the gentleman from Texas (Mr. TEAGUE).

The SPEAKER. Does the gentleman wish to be heard further on the point of order?

Mr. TEAGUE. Mr. Speaker, I would like to be heard on the point of order.

Mr. DINGELL. Mr. Speaker, I would like to be heard on the point of order at the appropriate time.

Mr. GOLDWATER. Mr. Speaker, I yield back my time. I have made my point of order.

Mr. DINGELL. Mr. Speaker, I think that this is not a good point of order, but out of grace and in order to give the House a chance to vote on this as an orderly procedure—I protested the disorderly procedure with the ERDA bill which was before us—but in order to have orderly procedure I will not contest the point of order, and I do not think my good friend from West Virginia, the chairman of the committee (Mr. STAGGERS) will contest it. Under those circumstances, I think it is appropriate for the Chair to rule on the point of order with regard to germaneness in order that we may proceed.

Mr. STAGGERS. Mr. Speaker, I would say that we have a separate vote on the point of order and then under those circumstances we would be able to proceed.

The SPEAKER. The point of order is conceded and sustained.

Mr. STAGGERS. I would say to the gentleman from California that it is without prejudice——

Mr. TEAGUE. Whether he concedes it or not, I would like to be heard on the point of order.

The SPEAKER. The Chair is going to sustain the point of order.

Mr. TEAGUE. Mr. Speaker, may I reserve the right to make a point of order? I am going to make a point of order against the whole conference report.

The SPEAKER. That would come later.

Mr. TEAGUE. But the Speaker will reserve my right?

The SPEAKER. Could the Chair make himself clear to the gentleman? That might depend upon the outcome of the motion the gentleman from California will make.

Mr. DINGELL. I think the gentleman wants to be heard; he desires to be heard.

I ask unanimous consent that he be heard at this time on the point of order which, by concession, without waiving questions of jurisdiction——

The SPEAKER. The Chair has no authority to hear arguments on matters not related to the point of order made by the gentleman. If the gentleman from California makes a motion, the business which transpires after the motion made by the gentleman will determine whether certain other points of order will be in order.

PARLIAMENTARY INQUIRY

Mr. GOLDWATER. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. GOLDWATER. Has the Chair ruled on the point of order.

The SPEAKER. The Chair sustained the point of order.

MOTION OFFERED BY MR. GOLDWATER

Mr. GOLDWATER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. GOLDWATER moves that part B, title V in section 301 of S. 622 be rejected.

The SPEAKER. The gentleman from California (Mr. GOLDWATER) is recognized for 20 minutes and the gentleman from West Virginia (Mr. STAGGERS) is recognized for 20 minutes.

The Chair recognizes the gentleman from California.

CALL OF THE HOUSE

Mr. McCORMACK. Mr. Speaker, I make the point of order that a quorum is not present..

The SPEAKER. Evidently a quorum is not present.

Mr. McFALL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 785]

Addabbo	Evans, Colo.	Passman
Andrews, N.C.	Flowers	Pike
Archer	Ford, Mich.	Rees
Bell	Fraser	Riegle
Biaggi	Gaydos	Russo
Bolling	Giaimo	St Germain
Brown, Mich.	Green	Scheuer
Burke, Fla.	Guyer	Schneebeli
Burton, John	Hébert	Shuster
Burton, Phillip	Heckler, Mass.	Simon
Chisholm	Hinshaw	Staggers
Collins, Ill.	Hungate	Symington
Conyers	Jarman	Thompson
Davis	Jenrette	Udall
Derwinski	Jones, Tenn.	Waxman
Dickinson	Kemp	Wiggins
Diggs	LaFalce	Wilson, C. H.
Drinan	Landrum	
Eshleman	Metcalfe	

The SPEAKER pro tempore (Mr. McFALL). On this rollcall 379 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

CONFERENCE REPORT ON S. 622, ENERGY POLICY AND CONSERVATION ACT

The SPEAKER pro tempore. The gentleman from California (Mr. GOLDWATER) is recognized for 20 minutes.

PARLIAMENTARY INQUIRIES

Mr. DINGELL. Mr. Speaker, will the gentleman yield for the purpose of a parliamentary inquiry?

Mr. GOLDWATER. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Speaker, I have a series of parliamentary inquiries and I thank the gentleman from California for yielding.

First of all, what is the business before the House, for the benefit of my colleagues?

The SPEAKER pro tempore. The Chair will state that the business before the House is the motion to reject offered by the gentleman from California (Mr. GOLDWATER) on which 40 minutes of debate is permitted.

Mr. DINGELL. A further parliamentary inquiry, Mr. Speaker, the motion is to reject what?

The SPEAKER pro tempore. The motion is to reject part B Title V of the Act as contained in section 301.

Mr. DINGELL. I thank the Speaker.

A further parliamentary inquiry is this: That is the part relating to "Application of Advanced Automotive Technology"?

The SPEAKER pro tempore. That is correct.

Mr. DINGELL. And the amount of time allotted for the debate is 40 minutes?

The SPEAKER pro tempore. The gentleman is correct, 20 minutes of which

Again I thank the gentleman from California (Mr. GOLDWATER).

Mr. DINGELL. Mr. Speaker, I have a further parliamentary inquiry that I will present at a later time.

Again I think the gentleman from California for yielding to me.

Mr. GOLDWATER. Mr. Speaker and my colleagues, there is now pending a motion to reject a particular section in the Energy Policy and Conservation Act entitled "Application of Advanced Automotive Technology."

Mr. Speaker, the Energy Policy and Conservation Act is a lengthy piece of legislation that was labored over by many Members of this body.

Upon going to conference, the House conferees caved in to the Senate conferees and accepted this particular amendment entitled "Application of Advanced Automotive Technology".

I would submit that this particular activity is not within the purview or really within the scope of the title or purpose of this bill, the "Energy Policy and Conservation Act".

If there are research and development efforts that are needed to obtain a better degree of auto efficiency, certainly there was legislation which we passed last week which was rightfully the place for that to be. Yet, now we find it in this conference bill before us.

Not only, Mr. Speaker, is this non germane, but clearly it is poorly worded and is not necessary.

This amendment, which was adopted by the conference, provides $50 million in 1976 and $80 million in 1977 which would be spent on advancing automotive technology, an activity which has been going on for many, many years within the

automotive industry itself. This clearly calls for a duplication of existing programs and existing activities in an industry that ranks among the largest in the world, General Motors, which spends hundreds and hundreds of millions of dollars in advanced automotive technology. I am not convinced that we need to spend additional taxpayers' dollars in an area where clearly a great deal of money is being spent by the industry itself.

This particular section is obviously intended to develop a prototype. Let me quote from the language of the bill in the definition:

The term "production prototype" means an automobile which is capable of being placed into production, for sale at retail, in significant quantities.

Listen carefully to what it says:

production, for sale at retail, in significant quantities.

In other words, we are saying that the Federal Government is going to be paying money to General Motors, to Ford, and to other automobile companies, to do exactly what they are doing now—build automobiles for sale at retail in significant quantities.

Mr. Speaker, I would submit that this is not needed and it is not called for.

It was pointed out in the debate earlier that the language of this amendment, as adopted by the House conferees, places no restriction as to nationality. In other words, if we want to grant a loan guarantee, as provided for in this section, or if we want to give research and development moneys to, say, Volkswagen in Germany, or Datsun in Japan, clearly it is in the legal purview of the Department of Transportation to do so. But I do not think that my colleagues here in the Congress nor those would find that a wise course to follow.

There is also no restriction as to the size of the corporation which will be eligible for these funds to research advance automotive technology. It is a giveaway to the Big Four. We are coming up on Christmastime, and here is a present to General Motors, and to Ford, and to other large companies in the State of Michigan.

Mr. Speaker, I would submit that there is a marketplace incentive for industry, for business, for Detroit to do production-line prototype research and development in light of foreign competition. The marketplace dictates efficiency of automobiles today, and we are seeing every day a new kind of car that claims more and more gas efficiency. Clearly I do not think it is in our best interests to duplicate what the automobile industry is already doing.

Another point that needs to be made, Mr. Speaker, is that ERDA already has this responsibility and is already in the process of doing this kind of research and development. It already has the wherewithal to give grants for automotive research and development.

Let me quote, if I might, from a letter signed by the Secretary of the Department of Transportation and the Administrator of ERDA. It says:

DEAR MR. CHAIRMAN: The Department of Transportation is actively engaged in programs to enhance the fuel efficiency of automobiles, and the Energy Research and Development Administration is already authorized to investigate and develop more efficient propulsion systems for automobiles. But neither agency believes that the development of production prototype vehicles is an appropriate Federal role.

Let me repeat that statement from Secretary Coleman and Administrator Seamans of ERDA: "neither agency believes that the development of production prototype vehicles is an appropriate Federal role" at this particular time.

Mr. Speaker, I would submit that putting this particular responsibility, as this language does, for research and development into the hands and under the jurisdiction of the Department of Transportation is surely putting the cart before the horse. ERDA presently today now has the statutory authority in the Energy Reorganization Act.

If I might quote from that Energy Reorganization Act it specifically says:

(g) There are hereby transferred to and vested in the Administrator such functions of the Environmental Protection Agency and the offices and components thereof as relate to or are utilized in connection with research, development, and demonstration, but not assessment or monitoring for regulatory purposes, of alternative automotive power systems.

And again in the Federal Nonnuclear Energy R. & D. Act, which gave the direction for ERDA, it says:

(iii) improvements in automobile design for increased efficiency and lowered emissions, including investigation of the full range of alternatives to the internal combustion engine and systems of public transportation; . . .

Mr. Speaker, if this particular provision is adopted by the House we are contravening precisely what we did earlier by putting the responsibility back into the hands of the Department of Transportation instead of in ERDA where we put it earlier this year and last year.

Mr. Speaker, in conclusion this particular language adopted by the House conferees—and I recognize that they were under great pressure—is wrong.We are already spending and have appropriated moneys for this type of activity to get away from the internal combustion engines to make them more efficient and to find alternate means of propulsion. We are doing that today. We will do it in the future. We do not need this language.

Second, clearly this language would transfer responsibility to the Department of Transportation. It should be in ERDA, it is in ERDA today, let us leave it in ERDA, let us not transfer it to the Department of Transportation.

Last, Mr. Speaker, even though this may be Christmastime, I do not think the Congress nor the American people are in much of a mood to give away presents of millions of dollars to such giant corporations as the Ford Motor Co. or General Motors. They have the wherewithal and they have the technical capability and they are today pursuing the objectives which are enumerated in this particular bill.

Clearly, Mr. Speaker, I would request the Members to reject this R. & D. section and let us go on with the remainder of the legislation.

Mr. STAGGERS. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Speaker, as I had indicated earlier to my colleagues I had not supported this in conference and voted against it at every opportunity. The reason was as raised by my friend and colleague, the gentleman from Texas, the chairman of the Committee on Science and Astronautics. However, my views did not prevail.

I do, however, believe the motion offered by the gentleman from California (Mr. GOLDWATER) should be rejected and for a very good reason. The conferees have brought back essentially a comprehensive package of energy legislation whose purpose is to see to it that we finally go in the direction of laying out controls on use and other things necessary to see to it that we finally begin to conserve energy and that we begin to develop alternative sources of energy.

It should be known that the conferees cut back a rather sweeping set of provisions. We deleted authority for the construction of prototype vehicles; we have reduced the funding which was inserted in the Senate from $175 million for loans and grants to $30 million; and we reduced the loan guarantees from $175 million to $55 million.

Mr. Speaker, we put in a series of limitations which had not previously been in the Senate bill; adequate security requirements, and a reasonable prospect of repayment were among things we required; also that no more than 90 percent of the principal be guaranteed and we very strictly narrowed the patent provisions. We continued the existing authority of ERDA and did not impair its authority to do research development on automotive engines.

I think it should be plain this is one of those jurisdictional questions, which the gentleman from Texas has pointed out, that plague us. We have not authorized research and development here; but on the contrary, we have done something else. We have provided for the application of advanced technology through new mechanisms. As I pointed out earlier, in not contesting the point of order from the gentleman from Texas in the interest of comity, this committee neither sought a special rule nor did we deny our colleagues the opportunity to vote on this question; although I believe we have behaved fully within the jurisdiction of the Committee on Interstate and Foreign Commerce, and our waiver of the points of order was to give the gentleman from Texas the opportunity to vote on this particular question.

Mr. Speaker, to reiterate my comments, I feel that the language, despite my opposition to it at a time earlier, is good language. I believe it is essential to a comprehensive package. I believe it is absolutely essential to the provisions relating to the limitations on energy used by automobiles inserted elsewhere and that research is clearly germane, even though I have sought to behave with comity toward my colleagues on the Committee on Science and Technology.

Mr. STAGGERS. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Speaker, I shall

not take the 2 minutes, but I do want to say this: that this conference report has been a very difficult and long and tedious labor of the conferees on our committee. I do greatly regret that the jurisdictional question has come up. I do know that our chairman has assured the chairman of the other committee, the gentleman from Texas (Mr. TEAGUE), that however this passes, the chairman does not want it to be considered in any sense as a precedent, a precedent trenching on the rights of that fine committee. I feel the same way about it.

The question of whether or not the authority is in ERDA or DOT is a matter that can easily be taken care of by amendment. I understand the gentleman from Washington (Mr. MCCORMACK) has a bill which the gentleman supports, except for that important difference, which is substantially identical with this provision.

Now, when the jurisdictional question is taken out of it by the good faith statement of our chairman and when the gentleman from Washington is getting the language the gentleman wants, except for that narrow difference, and as for my part I would not object to putting the authority in some other agency at some other time.

The only reason I think we should keep this bill and this report intact is because I think we are coming to a solution of a very, very difficult, long problem. I am not quite sure what would happen if we changed the report. Therefore, I strongly urge the rejection of the motion.

Mr. GOLDWATER. Mr. Speaker, I yield 5 minutes to the gentleman from Washington (Mr. MCCORMACK).

Mr. TEAGUE. Mr. Speaker, will the gentleman yield?

Mr. MCCORMACK. I yield to the gentleman from Texas.

Mr. TEAGUE. Mr. Speaker, I say to the gentleman from Washington, the chairman of the committee, that the gentleman has worked hard on this legislation and has done a lot of work on it. The gentleman has done as much as any Member of this House and I hope the Members will now listen to the gentleman from Washington.

Mr. MCCORMACK. Mr. Speaker, I thank the gentleman from Texas for his comments, and once again I would like to express my appreciation to our chairman, the gentleman from Texas (Mr. TEAGUE) for his leadership of the Committee on Science and Technology.

I want to concur with the remarks made by the gentleman from California (Mr. GOLDWATER), the ranking minority member on my subcommittee, who has worked very closely with me through several years in helping to develop an energy policy for our Nation.

I appreciate the gentleman from Michigan (Mr. DINGELL), opposing the inclusion of this provision in this conference report. It was an act of good faith, and I appreciate it. Nevertheless, I support the motion by the gentleman from California (Mr. GOLDWATER) to reject this section.

Incidentally, I also appreciate the points made by the gentleman from Texas (Mr. ECKHARDT). I realize it would not be easy to go back, but I think this is a matter of some considerable significance.

I want to point out that we have authorized $25 million for the ERDA for fiscal year 1976 for advanced automotive propulsion systems. The appropriation bills have already cleared the House and the Senate and are on their way to the White House. The total appropriation for this project is $10 million, as compared to the $25 million we have already authorized for ERDA. But now, in addition to that, the conference report before us would authorized $50 billion more for this year and $80 million more for next year. That is clearly out of the jurisdiction of the conference, but in addition to that, the report would provide a $55 million loan guarantee program to the automobile manufacturing corporations which are equipped with production lines.

Those loan guarantee moneys provided by the conference, it seems to me, must go to the major automobile companies because they must be able to put automobiles into production for sale at retail in significant quantities.

Mr. BROWN of California. Mr. Speaker, will the gentleman yield?

Mr. MCCORMACK. I yield to the gentleman from California.

Mr. BROWN of California. Mr. Speaker, I want to commend the gentleman for his statement.

Mr. Speaker, I rise in support of the conference report on S. 622. I would like particularly to indicate my support for that portion of title 5 which deals with research and development of advanced automotive technology.

For several years I have urged that the Federal Government undertake an active role in support of research and development to improve the efficiency, economy, performance, and clean emission characteristics of American automobiles.

In the last Congress, I introduced a bill (H.R. 10392) that had goals similar to those of the advanced automotive technology sections of the bill before us today. More than 100 of my colleagues in the House joined me as cosponsors of that proposal, and extensive hearings were held by the Committee on Science and Astronautics.

Unfortunately, persuading the Congress to act even on the most meritorious measures sometimes takes a long time.

The dimensions of the problem we face are enormous. Approximately one-half of the petroleum used each year in the United States is burned as fuel in engines used for transportation, principally private automobiles. As our citizens become more conscious of declining energy resources and higher energy prices, it becomes imperative that automobiles be made more efficient.

While some progress has been made by the auto industry in recent years, the American car is still a notoriously inefficient mode of transportation. There is plenty of room for improvement, and much of the technology needed is near at hand. As a matter of public policy this Nation should, without further delay, undertake a thoroughgoing research program to improve the efficiency of these machines which play such an important role in all our lives. Increased efficiency of just a few percentage points quickly translates into savings of millions of barrels of oil per day. In present circumstances, that should be an irresistible inducement to develop more efficient cars.

This bill sets forth important roles and missions for both ERDA and DOT. The funding levels appear to be reasonable for the early stage of such a program.

Mr. Speaker, in my view this type of activity deserves the support of all Members of the House.

Mr. MCCORMACK. I thank the gentleman for his comments.

Mr. Speaker, I want to point out to all the Members of the House that I am holding here a copy of H.R. 9714. In July of this year a bill (S. 1833) on automotive research and development and regulation come over from the other body. Because it covered two completely different subjects, one on regulatory—which clearly belonged in the Committee on Interstate Commerce in this body—and one on research and development—which clearly is within the jurisdiction of the Committee on Science and Technology—that bill still lays, as I understand it, on the Speaker's table. It has never been assigned to committee, and by consensus, we on the Science and Technology Committee sponsored the second title of that bill only. We pulled out what had to do with research, development and demonstration for vehicles and offered H.R. 9174, co-sponsored by the gentleman from Texas (Mr. TEAGUE), the gentleman from Ohio (Mr. MOSHER), the gentleman from California (Mr. GOLDWATER) and myself. That bill is scheduled for hearings early next year.

Now, this bill is almost identical to the provisions in title V, part B in the conference report, which we would now strike. I want to point out to the Members of the House that there has never been a minute of hearings on this subject in the House, in any committee. There have simply been no hearings on it at all. One may say, "well, if it is all that much the same, why not go ahead with it?"

The reason, aside from those mentioned above, is that there is one fundamental difference that is extremely important. Under the Nonnuclear Energy Research and Development Demonstration Act, all of the responsibility for automotive propulsion research and development was assigned to the Energy Research and Development Administration. That is where the money has been authorized, and it is for the ERDA that the money has been appropriated by this body this year—not to the Department of Transportation, but to the Energy Research and Development Administration.

So, this body and the other body, the Congress and the administration, are in clear agreement that the Energy Research and Development Administration should be carrying out this program. We have authorized the funds and we have appropriated the money.

The SPEAKER. The time of the gentleman has expired.

Mr. GOLDWATER. Mr. Speaker, I yield 1 additional minute to the gentleman from Washington (Mr. MCCORMACK).

Mr. McCORMACK. Mr. Speaker, this report would superimpose the same program in the Department of Transportation, clearly duplicative within the administration after the fact of the authorization and the appropriation, and clearly not consistent with legislation that this Congress has passed. For this reason, I believe this section should be deleted, and I support the motion of the gentleman from California (Mr. GOLDWATER).

Mr. GOLDWATER. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Speaker, I want to make one observation with reference to the controversy which has sprung up here, and that is that the conference met with 7 Members of the House of Representatives and 25—count them—Members of the U.S. Senate. Those 25 Senators represented 3 committees of the Senate, the Senate Commerce Committee, the Senate Public Works Committee, the Senate Interior and Insular Affairs Committee, and we literally took one bill from the House, H.R. 7014, and conferenced it with four bills from the Senate, S. 1883 and S. 349 from the Committee on Commerce, and S. 622 and S. 677 from the Committee on Interior and Insular Affairs.

How, you may ask, did we get so many members of the Committee on Public Works in the conference? I am not sure I can answer that question except that we had three different committees over there, and that is why we got into this imbroglio of what is in order and what is germane.

Mr. GOLDWATER. Mr. Speaker, I reserve the balance of my time.

Mr. STAGGERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. STAGGERS. Mr. Speaker, I very reluctantly rise to speak because I am sure that the gentleman from California (Mr. GOLDWATER) and the gentleman from Washington (Mr. McCORMACK) both have good faith, they are great Americans, they are great Congressmen here, and they make great contributions to our laws.

Mr. Speaker, I would like to reason with them, though, briefly, and with the rest of the Members of the House, in this way: This was put in on the Senate. We narrowed the concept of what the Senate had. The gentleman from California said we had not had hearings on this.

Mr. Speaker, we have held hearings on related subjects since we had the automobile jurisdiction in our committee, and that is since I have been on the committee. We talked about what we could do to help get this done and argued about many, many ways in which we could do it.

If any automobile company accepts one penny in loans or grants, they have to make their patents available to anyone else who wants them and would like to take a look at them. I do not think there is an automobile company in America which would take one penny. But this will go to colleges, universities, other laboratories. We have some of them which I think are great, which ought to have been in operation years ago. They can insure that automobiles attain twice the mileage that they are doing today, and I think we ought to encourage it. It is a part of the package that we brought back from the Senate.

Mr. Speaker, we have been almost a year on this bill. The subcommittee had 3 weeks of hearings. They had 28 days of markups. In the full committee we had 13 meetings in order to make up the bill. It was on the floor for debate from July 1 until late September, when it was finally passed. We were in conference more than a month. We came out with what I thought was the best bill we could for America.

Mr. Speaker, I want better automobiles. I think everyone here does. Let us not delay this one more year.

We have put this provision in the bill, and it was the intent of all of us that it go to the universities and to those who are capable of accomplishing this. Yes, the DOT can contract it out.

Mr. Speaker, I would hope that the Members of this House will vote this motion down and keep this bill intact as it is, because I believe it is a good bill for America and one that will be helpful. Certainly if there were any indication we were really going to give this money to automobile companies, I would vote against it right now, but I do not believe there will be one penny going to them.

So with that I will say I believe if the Members vote "no," they will be voting for the best interests of the land and they will be helping us to try to get a capable automobile on the road, one that will make 28 miles on a gallon and, yes, even 35 miles per gallon. I think it can be done, and I think it must be done before 1985. I think it should be done by 1980 or earlier than that.

Mr. HAYS of Ohio. Mr. Speaker, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Ohio.

Mr. HAYS of Ohio. Mr. Speaker, I will say to the gentleman that I know it can be done, because I drove a brand new American-made car here from Ohio last night, a car with a hundred miles on it, and I got 28½ miles per gallon. So they can do it.

Mr. STAGGERS. They can do it, and what I am saying is that we ought to have it done now and get it over with so we can get cars like this to people all over the land.

The SPEAKER. The Chair recognizes the gentleman from California (Mr. GOLDWATER).

Mr. GOLDWATER. Mr. Speaker, Americans can do what the gentleman from West Virginia suggests, and they are doing it today without Federal tax dollars, and that is the point. We have a program, as spelled out by the gentleman from Washington (Mr. McCORMACK), a program of research and development as well as demonstration for more efficient automobiles, and that is what we are after.

This is clearly a duplication of that effort. It is not needed at this time. In addition, it transfers authority to the Department of Transportation out of ERDA. ERDA clearly has the jurisdiction, and that is where it should lie. Under this bill it transfers the authority to DOT, and we do not want that.

I have great sympathy for the argument of my colleague and my former committee chairman, the gentleman from West Virginia (Mr. STAGGERS), and I know that the conferees tried very hard to do the best job possible. However, I clearly do not have sympathy for their efforts in giving away over $130 million of hard-earned taxpayer dollars to General Motors or to Ford or to any other automobile company of that size to do something that they are already doing and to duplicate something that the Government is already in fact involved in.

We do not need it, Mr. Speaker, and I call upon my colleagues to very soundly reject this provision and have the conferees go back to the conference committee and insist on this rejection.

The SPEAKER. The Chair recognizes the gentleman from West Virginia (Mr. STAGGERS).

Mr. STAGGERS. Mr. Speaker, just in closing I would like to say that I do not think there is an automobile company in America that will get a penny of this money. They will have to show me that they can do it. This goes to the universities and to those laboratories that are competent. I think this is the time for us to do it. This is just a small amount of money.

If an automobile company does do this, it would have to give up their patent rights, and I do not think they are about to do that just for this small amount of money.

PARLIAMENTARY INQUIRY

Mr. GOLDWATER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. GOLDWATER. Mr. Speaker, as I understand it, the motion is to reject this particular section of S. 622.

The SPEAKER. The gentleman is correct, part B of title V of the act as contained in section 301 of the conference report.

Mr. GOLDWATER. Yes, Mr. Speaker. That is the advanced automotive efficiency section.

As I understand it, an "aye" vote is to reject or to strike part B, as contained on page 51?

The SPEAKER. The gentleman is correct. An "aye" vote is to reject part B of section 541, as the Chair understands the motion, as found on page 51 of the conference report.

Mr. GOLDWATER. An "aye" vote is to reject that section?

The SPEAKER. The gentleman is correct. A vote of "aye" is a vote for the motion offered by the gentleman from California (Mr. GOLDWATER).

Mr. GOLDWATER. I Thank the Speaker.

The SPEAKER. The question is on the motion offered by the gentleman from California (Mr. GOLDWATER).

The question was taken; and the Speaker announced that he was in doubt.

Mr. GOLDWATER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic de-

vice, and there were—yeas 300, nays 103, not voting 31, as follows:

[Roll No. 786]

YEAS—300

Abdnor	Frey	Moorhead, Calif.
Alexander	Fuqua	Mosher
Allen	Gibbons	Mottl
Anderson, Calif.	Gilman	Murphy, Ill.
Anderson, Ill.	Ginn	Murtha
Andrews, N. Dak.	Goldwater	Myers, Ind.
Annunzio	Goodling	Myers, Pa.
Armstrong	Gradison	Natcher
Ashbrook	Grassley	Neal
Ashley	Gude	Nichols
Aspin	Hagedorn	Nix
AuCoin	Haley	Nowak
Bafalis	Hall	Obey
Baldus	Hamilton	O'Brien
Barrett	Hammer-schmidt	Pepper
Baucus	Hanley	Perkins
Bauman	Hannaford	Pettis
Beard, Tenn.	Hansen	Peyser
Bedell	Harkin	Pickle
Bennett	Harsha	Pike
Bevill	Hastings	Poage
Blouin	Hayes, Ind.	Preyer
Boggs	Hechler, W. Va.	Price
Boland	Heckler, Mass.	Pritchard
Bolling	Hefner	Quie
Bonker	Heinz	Quillen
Bowen	Helstoski	Railsback
Brademas	Henderson	Randall
Breaux	Hicks	Rangel
Breckinridge	Hightower	Rees
Brinkley	Hillis	Regula
Brooks	Holt	Reuss
Broomfield	Horton	Rhodes
Brown, Mich.	Howe	Rinaldo
Brown, Ohio	Hubbard	Risenhoover
Broyhill	Hughes	Roberts
Buchanan	Hungate	Robinson
Burgener	Hutchinson	Rodino
Burke, Calif.	Hyde	Roe
Burleson, Tex.	Ichord	Roncalio
Burlison, Mo.	Jacobs	Rose
Butler	Jeffords	Rostenkowski
Byron	Johnson, Colo.	Roush
Carter	Johnson, Pa.	Rousselot
Casey	Jones, Ala.	Runnels
Cederberg	Jones, N.C.	Ruppe
Chappell	Jones, Okla.	Ryan
Clancy	Jordan	Sarasin
Clausen, Don H.	Kasten	Satterfield
Clawson, Del	Kazen	Schneebeli
Cleveland	Kelly	Schulze
Cochran	Kemp	Sebelius
Collins, Tex.	Ketchum	Shipley
Conable	Keys	Shriver
Conlan	Kindness	Shuster
Corman	Koch	Sikes
Cornell	Krebs	Sisk
Coughlin	Krueger	Skubitz
Crane	LaFalce	Slack
D'Amours	Lagomarsino	Smith, Iowa
Daniel, Dan	Landrum	Smith, Nebr.
Daniel, R. W.	Latta	Snyder
Daniels, N.J.	Lehman	Spence
Danielson	Levitas	Stanton, J. William
Davis	Litton	Steed
de la Garza	Lloyd, Tenn.	Steelman
Delaney	Long, La.	Steiger, Ariz.
Dellums	Long, Md.	Steiger, Wis.
Dent	Lott	Stephens
Derwinski	Lujan	Stuckey
Devine	McClory	Symms
Dickinson	McCollister	Talcott
Dodd	McCormack	Taylor, Mo.
Downey, N.Y.	McDade	Taylor, N.C.
Downing, Va.	McDonald	Teague
Duncan, Oreg.	McEwen	Thone
Duncan, Tenn.	McHugh	Thornton
du Pont	McKay	Treen
Edwards, Ala.	McKinney	Ullman
Eilberg	Madigan	Vander Jagt
English	Mahon	Vigorito
Erlenborn	Mann	Waggonner
Esch	Martin	Walsh
Eshleman	Mathis	Wampler
Evans, Colo.	Matsunaga	Whalen
Evans, Ind.	Melcher	White
Fary	Mezvinsky	Whitehurst
Fenwick	Michel	Whitten
Findley	Milford	Wiggins
Fish	Miller, Calif.	Wilson, Bob
Fithian	Miller, Ohio	Wilson, Tex.
Flood	Mills	Winn
Flynt	Minish	Wirth
Ford, Tenn.	Mitchell, N.Y.	Wolff
Forsythe	Moffett	Wright
Fountain	Mollohan	Wydler
Frenzel	Montgomery	Wylie
	Moore	Yates
Yatron	Young, Fla.	Zablocki
Young, Alaska	Young, Tex.	Zeferetti

NAYS—103

Abzug	Gonzalez	Ottinger
Adams	Green	Passman
Ambro	Harrington	Patman, Tex.
Badillo	Harris	Patten, N.J.
Beard, R.I.	Hawkins	Patterson, Calif.
Bergland	Hays, Ohio	Pattison, N.Y.
Biester	Holland	Pressler
Bingham	Holtzman	Richmond
Blanchard	Howard	Rogers
Brodhead	Johnson, Calif.	Rooney
Brown, Calif.	Karth	Rosenthal
Burke, Mass.	Kastenmeier	Roybal
Burton, Phillip	Leggett	Santini
Carney	Lloyd, Calif.	Scheuer
Carr	McCloskey	Schroeder
Chisholm	McFall	Selberling
Clay	Macdonald	Sharp
Cohen	Maguire	Solarz
Conte	Mazzoli	Spellman
Conyers	Meeds	Staggers
Cotter	Meyner	Stanton, James V.
Derrick	Mikva	Stark
Dingell	Mineta	Stokes
Drinan	Mink	Stratton
Early	Mitchell, Md.	Studds
Eckhardt	Moakley	Sullivan
Edgar	Moorhead, Pa.	Traxler
Edwards, Calif.	Morgan	Tsongas
Emery	Moss	Van Deerlin
Evins, Tenn.	Murphy, N.Y.	Vander Veen
Fascell	Nedzi	Vanik
Fisher	Nolan	Weaver
Florio	Oberstar	Young, Ga.
Foley	O'Hara	
Giaimo	O'Neill	

NOT VOTING—31

Addabbo	Fraser	Russo
Andrews, N.C.	Gaydos	St Germain
Archer	Guyer	Sarbanes
Bell	Hébert	Simon
Biaggi	Hinshaw	Symington
Burke, Fla.	Jarman	Thompson
Burton, John	Jenrette	Udall
Collins, Ill.	Jones, Tenn.	Waxman
Diggs	Madden	Wilson, C. H.
Flowers	Metcalfe	
Ford, Mich.	Riegle	

The Clerk announced the following pairs:

Mr. Addabbo with Mr. Archer.
Mr. Hébert with Mr. Fraser.
Mr. Thompson with Mr. Andrews of North Carolina.
Mr. Waxman with Mr. Guyer.
Mr. Russo with Mr. Hinshaw.
Mr. St Germain with Mr. Bell.
Mr. Biaggi with Mr. Burke of Florida.
Mr. Sarbanes with Mr. Jarman.
Mr. Symington with Mr. Riegle.
Mr. Metcalfe with Mr. Madden.
Mr. John L. Burton with Mr. Jenrette.
Mrs. Collins of Illinois with Mr. Simon.
Mr. Diggs with Mr. Jones of Tennessee.
Mr. Flowers with Mr. Charles H. Wilson of California.
Mr. Udall with Mr. Ford of Michigan.

Messrs. CARNEY, AMBRO, and WEAVER changed their vote from "yea" to "nay."

Messrs. KOCH, DELANEY, BAUCUS, ASHLEY, HUGHES, and RINALDO changed their vote from "nay" to "yea."

So the motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER. The Chair recognizes the gentleman from West Virginia (Mr. STAGGERS).

MOTION OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. STAGGERS moves that the House recede from its disagreement to the Senate amendments to the House amendment and concur with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

That this Act may be cited as the "Energy Policy and Conservation Act"

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STATEMENT OF PURPOSES

SEC. 2. The purposes of this Act are—

(1) to grant specific standby authority to the President, subject to congressional review, to impose rationing, to reduce demand for energy through the implementation of energy conservation plans, and to fulfill obligations of the United States under the international energy program;

(2) to provide for the creation of a Strategic Petroleum Reserve capable of reducing the impact of severe energy supply interruptions;

(3) to increase the supply of fossil fuels in the United States, through price incentives and production requirements;

(4) to conserve energy supplies through energy conservation programs, and, where necessary, the regulation of certain energy uses;

(5) to provide for improved energy efficiency to motor vehicles, major appliances, and certain other consumer products;

(6) to reduce the demand for petroleum products and natural gas through programs designed to provide greater availability and use of this Nation's abundant coal resources; and

(7) to provide a means for verification of energy data to assure the reliability of energy data.

DEFINITIONS

SEC. 3. As used in this Act:

(1) The term "Administrator" means the Administrator of the Federal Energy Administration.

(2) The term "person" includes (A) any individual, (B) any corporation, company, association, firm, partnership, society, trust, joint venture, or joint stock company, and (C) the government and any agency of the United States or any State or political subdivision thereof.

(3) The term "petroleum product" means crude oil, residual fuel oil, or any refined petroleum product (including any natural liquid and any natural gas liquid product).

(4) The term "State" means a State, the District of Columbia, Puerto Rico, or any territory or possession of the United States.

(5) The term "United States" when used in the geographical sense means all of the States and the Outer Continental Shelf.

(6) The term "Outer Continental Shelf" has the same meaning as such term has under section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331).

(7) The term "international energy program" means the Agreement on an International Energy Program, signed by the United States on November 18, 1974, including (A) the annex entitled "Emergency Reserves", (B) any amendment to such Agreement which included another nation as a party to such Agreement, and (C) any technical or clerical amendment to such Agreement.

(8) The term "severe energy supply interruption" means a national energy supply shortage which the President determines—

(A) is, or likely to be, of significant scope and duration, and of an emergency nature;

(B) may cause major adverse impact on national safety or the national economy; and

(C) results, or is likely to result, from an interruption in the supply of imported petroleum products, or from sabotage or an act of God.

(9) The term "antitrust laws" includes—

(A) 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.);

(B) 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.);

(C) the Federal Trade Commission Act (15 U.S.C. 41, et seq.);

(D) 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); and

(E) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21A).

(10) The term "Federal land" means all lands owned or controlled by the United States, including the Outer Continental Shelf, and any land in which the United States has reserved mineral interests, except lands—

(A) held in trust for Indians or Alaska Natives,

(B) owned by Indians or Alaska Natives with Federal restrictions on the title,

(C) within any area of the National Park System, the National Wildlife Refuge System, the National Wilderness Preservation System, the National System of Trails, or the Wild and Scenic Rivers System, or

(D) within military reservations.

TITLE I—MATTERS RELATED TO DOMESTIC SUPPLY AVAILABILITY

PART A—DOMESTIC SUPPLY

COAL CONVERSION

SEC. 101. (a) Section 2(f) of the Energy Supply and Environmental Coordination Act of 1974 is amended—

(1) in paragraph (1) thereof, by striking out "June 30, 1975" and inserting in lieu thereof "June 30, 1977", and by striking out "January 1, 1979" and inserting in lieu thereof "January 1, 1985"; and

(2) in paragraph (2) thereof, by striking out "December 31, 1978" and inserting in lieu thereof "December 31, 1984", and by striking out "January 1, 1979" and inserting in lieu thereof "January 1, 1985".

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

"(a) The Federal Energy Administrator—

"(1) shall, by order, prohibit any powerplant, and

"(2) may, by order, prohibit any major fuel burning installation, other than a powerplant,

from burning natural gas or petroleum products as its primary energy source, if the requirements of subsection (b) are met and if (A) the Federal Energy Administrator determines such powerplant or installation on June 22, 1974, had, or thereafter acquires or is designed with, the capability and necessary plant equipment to burn coal, or (B) such powerplant or installation is required to meet a design or construction requirement under subsection (c)."

(c) Section 2(c) of such Act is amended by

inserting "or other major fuel burning installation" after "powerplant" wherever it appears and by inserting "in the case of a powerplant" after "(1)" in the second sentence.

INCENTIVES TO DEVELOP UNDERGROUND COAL MINES

SEC. 102. (a) The Administrator may, in accordance with subsection (b) and rules precribed under subsection (d), guarantee loans made to eligible persons described in subsection (c)(1) for the purpose of developing new underground coal mines.

(b)(1) A person may receive for a loan guarantee under subsection (a) only if the Administrator determines that—

(A) such person is capable of successfully developing and operating the mine with respect to which the loan guarantee is sought;

(B) such person has provided adequate assurance that the mine will be constructed and operated in compliance with the provisions of the Federal Coal Mine Health and Safety Act and that no final judgment holding such person liable for any fine or penalty under such Act is unsatisfied;

(C) there is a reasonable prospect of repayment of the guaranteed loan;

(D) such person has obtained a contract, of at least the duration of the period during which the loan is required to be repaid, for the sale or resale of coal to be produced from such mine to a person who the Administrator of the Environmental Protection Agency certifies will be able to burn such coal in compliance with all applicable requirements of the Clean Air Act, and of any applicable implementation plan (as defined in section 110 of such Act);

(E) the loan will be adequately secured;

(F) such person would be unable to obtain adequate financing without such guarantee;

(G) the guaranteeing of a loan to such person will enhance competition or encourage new market entry; and

(H) such person has adequate coal reserves to cover contractual commitments described in subparagraph (D).

(2) The total amount of guarantees issued to any person (including all persons affiliated with such person) may not exceed $30,000,000. The amount of a guarantee issued with respect to any loan may not exceed 80 percent of the lesser of (A) the principal balance of the loan or, (B) the cost of developing such new underground coal mine.

(3) The aggregate outstanding principal amount of loans which are guaranteed under this section may not at any time exceed $750,000,000. Not more than 20 percent of the amount of guarantees issued under this section in any fiscal year may be issued with respect to loans for the purpose of opening new underground coal mines which produce coal which is not low sulfur coal.

(c) For purposes of this section—

(1) A person shall be considered eligible for a guarantee under this section if such person (together with all persons affiliated with such person)—

(A) did not produce more than 1,000,000 tons of coal in the calendar year preceding the year in which he makes application for a loan guarantee under this section;

(B) did not produce more than 300,000 barrels of crude oil or own an oil refinery in such preceding calendar year; and

(C) did not have gross revenues in excess of $50,000,000 in such calendar year.

(2) A person is affiliated with another person if he controls, is controlled by, or is under common control with such other person, as such term may be further defined by rule by the Administrator.

(3) The term "low sulfur coal" means coal which, in a quantity necessary to produce one million British thermal units, does not contain sulfur or sulfur compounds the elemental sulfur content of which exceeds 0.6 pound. Sulfur content shall be determined after the application of any coal preparation process which takes place before sale of the coal by the producer.

(d) The Administrator shall prescribe such regulations as may be necessary or appropriate to carry out this section. Such rules shall require that each application for a guarantee under this section shall be made in writing to the Administrator in such form and with such content and other submissions as the Administrator shall require, in order reasonably to protect the interests of the United States. Each guarantee shall be issued in accordance with subsection (a) through (c) and—

(1) under such terms and conditions as the Administrator, in consultation with the Secretary of the Treasury, considers appropriate;

(2) with such provisions with respect to the date of issue of such guarantee as the Administrator, with the concurrence of the Secretary of the Treasury, considers appropriate, except that the required concurrence of the Secretary of the Treasury may not, without the consent of the Administrator, result in a delay in the issuance of such guarantee for more than 60 days; and

(3) in such form as the Administrator considers appropriate.

(e) Each person who receives a loan guarantee under this section shall keep such records as the Administrator or the Secretary of the Treasury shall require, including records which fully disclose the total cost of the project for which a loan is guaranteed under this section and such other records as the Administrator or the Secretary of the Treasury determines necessary to facilitate an effective audit and performance evaluation. The Administrator, the Secretary of the Treasury, and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any pertinent books, documents, papers, and records of any person who receives a loan guarantee under this section.

DOMESTIC USE OF ENERGY SUPPLIES AND RELATED MATERIALS AND EQUIPMENT

SEC. 103. (a) The President may, by rule, under such terms and conditions as he determines to be appropriate and necessary to carry out the purposes of this Act, restrict exports of—

(1) coal, petroleum products, natural gas, or petrochemical feedstocks, and

(2) supplies of materials or equipment which he determines to be necessary (A) to maintain or further exploration, production, refining, or transportation of energy supplies, or (B) for the construction or maintenance of energy facilities within the United States.

(b)(1) The President shall exercise the authority provided for in subsection (a) to promulgate a rule prohibiting the export of crude oil and natural gas produced in the United States, except that the President may, pursuant to paragraph (2), exempt from such prohibition such crude oil or natural gas exports which he determines to be consistent with the national interest and the purposes of this Act.

(2) Exemptions from any rule prohibiting crude oil or natural gas exports shall be included in such rule or provided for in an amendment thereto and may be based on the purpose for export, class of seller or purchaser, country of destination, or any other reasonable classification or basis as the President determines to be appropriate and consistent with the national interest and the purposes of this Act.

(c) In order to implement any rule promulgated under subsection (a) of this section, the President may request and, if so, the Secretary of Commerce shall, pursuant to the procedures established by the Export Administration Act of 1969 (but without regard to the phrase "and to reduce the serious inflationary impact of foreign demand" in section 3(2)(A) of such Act), impose such restrictions as specified in any rule under subsection (a) on exports of coal, petroleum products, natural gas, or petrochemical feedstocks, and such supplies of materials and equipment.

(d) Any finding by the President pursuant to subsection (a) or (b) and any action taken by the Secretary of Commerce pursuant thereto shall take into account the national interest as related to the need to leave uninterrupted or unimpaired—

(1) exchanges in similar quantity for convenience or increased efficiency of transportation with persons or the government of a foreign state.

(2) temporary exports for convenience or increased efficiency of transportation across parts of an adjacent foreign state which exports reenter the United States, and

(3) the historical trading relations of the United States with Canada and Mexico.

(e)(1) The provisions of subchapter II of chapter 5 of title 5, United States Code shall apply with respect to the promulgation of any rule pursuant to this section, except that the President may waive the requirement pertaining to the notice of proposed rulemaking or period for comment only if he finds that compliance with such requirements may seriously impair his ability to impose effective and timely prohibitions on exports.

(2) In the event such notice and comment period are waived with respect to a rule promulgated under this section, the President shall afford interested persons an opportunity to comment on any such rule at the earliest practicable date thereafter.

(3 If the President determines to request the Secretary of Commerce to impose specified restrictions as provided for in subsection (c), the enforcement and penalty provisions of the Export Administration Act of 1969 shall apply, in lieu of this Act, to any violation of such restrictions.

(f) The President shall submit quarterly reports to the Congress concerning the administration of this section and any findings made pursuant to subsection (a) or (b).

MATERIALS ALLOCATION

SEC. 104. (a) Section 101 of the Defense Production Act of 1950 is amended by adding at the end thereof the following new subsection:

"(c)(1) Notwithstanding any other provision of this Act, the President may, by rule or order, require the allocation of, or the priority performance under contracts or orders (other than contracts of employment) relating to, supplies of materials and equipment in order to maximize domestic energy supplies if he makes the findings required by paragraph (3) of this subsection.

"(2) The President shall report to the Congress within sixty days after the date of enactment of this subsection on the manner in which the authority contained in paragraph (1) will be administered. This report shall include the manner in which allocations will be made, the procedure for requests and appeals, the criteria for determining priorities as between competing requests, and the office or agency which will administer such authorities.

"(3) The authority granted in this subsection may not be used to require priority performance of contracts or orders, or to control the distribution of any supplies of materials and equipment in the marketplace, unless the President finds that—

(A) such supplies are scarce, critical, and essential to maintain or further (i) exploration, production, refining, transportation, or (ii) the conservation of energy supplies, or (iii) for the construction and maintenance of energy facilities; and

"(B) maintenance or furtherance of exploration, production, refining, transportation, or conservation of energy supplies or the construction and maintenance of energy facilities cannot reasonably be accomplished without exercising the authority specified in paragraph (1) of this subsection.

"(4) During any period when the authority conferred by this subsection is being exercised, the President shall take such action as may be appropriate to assure that such authority is being exercised in a manner which assures the coordinated administration of such authority with any priorities or allocations established under subsection (a) of this section and in effect during the same period.".

(b)(1) The authority to issue any rules or orders under section 101(c) of the Defense Production Act of 1950, as amended by this Act, shall expire at midnight December 31, 1984, 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 such date.

(2) The expiration of the Defense Production Act of 1950 or any amendment of such Act after the date of enactment of this Act shall not affect the authority of the President under section 101(c) of such Act, as amended by subsection (a) of this section and in effect on the date of enactment of this Act, unless Congress by law expressly provides to the contrary.

PROHIBITION OF CERTAIN LEASE BIDDING ARRANGEMENTS

SEC. 105. (a) The Secretary of the Interior shall, not later than 30 days after the date of enactment of this Act, prescribe and make effective a rule which prohibits the bidding for any right to develop crude oil, natural gas, and natural gas liquids on any lands located on the Outer Continental Shelf by any person if more than one major oil company, more than one affiliate of a major oil company, or a major oil company and any affiliate of a major oil company, has or have a significant ownership interest in such person. Such rule shall define affiliate relationships and significant ownership interests.

(b) As used in this section:

(1) The term "major oil company" means any person who, individually or together with any other person with respect to which such person has an affiliate relationship or significant ownership interest, produced during a prior 6-month period specified by the Secretary, an average daily volume of 1,600,000 barrels of crude oil, natural gas liquids equivalents, and natural gas equivalents.

(2) One barrel of natural gas equivalent equals 5,626 cubic feet of natural gas measured at 14.73 pounds per square inch (MSL) and 60 degrees Fahrenheit.

(3) One barrel of natural gas liquids equivalent equals 1.454 barrels of natural gas liquids at 60 degrees Fahrenheit.

(c) The Secretary may, by amendment to the rule, exempt bidding for leases for lands located in frontier or other areas determined by the Secretary to be extremely high risk lands or to present unusually high cost exploration, or development, problems.

(d) This section shall not be construed to prohibit the unitization of producing fields to increase production or maximize ultimate recovery of oil or natural gas, or both.

(e) The Secretary shall study and report to the Congress, not later than 6 months after the date of enactment of this Act, with respect to the feasibility and desirability of extending the prohibition on joint bidding to—

(1) bidding for any right to develop crude oil, natural gas, and natural gas liquids on Federal lands other than those located on the Outer Continental Shelf; and

(2) bidding for any right to develop coal and oil shale on such lands.

PRODUCTION OF OIL OR GAS AT THE MAXIMUM EFFICIENT RATE AND TEMPORARY EMERGENCY PRODUCTION RATE

SEC. 106. (a)(1) The Secretary of the Interior, by rule on the record after an opportunity for a hearing, shall, to the greatest extent practicable, determine the maximum efficient rate of production and, if any, the temporary emergency production rate for each field on Federal lands which produces, or is determined to be capable of producing, significant volumes of crude oil or natural gas, or both.

(2) Except as provided in subsection (f), the President may, by rule or order, require crude oil or natural gas, or both, to be produced from fields on Federal lands designated by him—

(A) at the maximum efficient rate of production, and

(B) during a severe energy supply interruption, at the temporary emergency production rate

as determined pursuant to paragraph (1) for such field.

(b)(1) Each State, or the appropriate agency thereof may, for the purposes of this section, pursuant to procedures and standards established by the State, determine the maximum efficient rate of production and, if any, the temporary emergency production rate, for each field (other than a field on Federal lands) within such State which produces, or is determined to be capable of producing, significant volumes of crude oil or natural gas, or both.

(2) If a State or the appropriate agency thereof has determined the maximum efficient rate of production and, if any, the temporary emergency production rate, or both, or their equivalents (however characterized), for any field (other than a field on Federal lands) within such State, the President may, by rule or order, during a severe energy supply interruption, require the production of such fields at the rates of production established by the State.

(c) With respect to any field, which produces, or is determined to be capable of producing, significant volumes of crude oil, or natural gas, or both, which field is unitized and is composed of both Federal lands and lands other than Federal lands and there has been no determination of the maximum efficient rate of production or the temporary emergency production rate or both, the Secretary of the Interior may, pursuant to subsection (a)(1), determine a maximum efficient rate of production and a temporary emergency production rate, if any, for such field. The President may, during a severe energy supply interruption by rule or order, require production at the maximum efficient rate of production and the temporary emergency production rate, if any, determined for such field.

(d) If loss of ultimate recovery of crude oil or natural gas, or both, occurs or will occur as the result of a rule or order under the authority of this section to produce at the temporary emergency production rate, the owner of any property right who considers himself damaged by such order may bring an action in a United States district court to recover just compensation, which shall be awarded if the court finds that such loss constitutes a taking of property compensable under the Constitution.

(e) As used in this section:

(1) The term "maximum efficient rate of production" means the maximum rate of production of crude oil or natural gas, or both, which may be sustained without loss of ultimate recovery of crude oil or natural gas, or both, under sound engineering and economic principles.

(2) The term "temporary emergency production rate" means the maximum rate of production for a field—

(A) which rate is above the maximum efficient rate of production established for such field; and

(B) which may be maintained for a temporary period of less than 90 days without reservoir damage and without significant loss of ultimate recovery of crude oil or natural gas or both, from such field.

(f) Nothing in this section shall be construed to authorize the production of crude oil, or natural gas, or both, from any Naval Petroleum Reserve subject t the provisions of chapter 641 of title 10, United States Code.

PART B—STRATEGIC PETROLEUM RESERVE

DECLARATION OF POLICY

SEC. 151. (a) The Congress finds that the storage of substantial quantities of petroleum products will diminish the vulnerability of the United States to the effects of a severe energy supply interruption, and provide limited protection from the short-term consequences of interruptions in supplies of petroleum products.

(b) It is hereby declared to be the policy of the United States to provide for the creation of a Strategic Petroleum Reserve for the storage of up to 1 billion barrels of petroleum products, but not less than 150 million barrels of petroleum products by the end of the 3-year period which begins on the date of enactment of this Act, for the purpose of reducing the impact of disruptions in supplies of petroleum products or to carry out obligations of the United States under the international energy program. It is further declared to be the policy of the United States to provide for the creation of an Early Storage Reserve, as part of the Reserve, for the purpose of providing limited protection from the impact of near-term disruptions in supplies of petroleum products or to carry out obligations of the United States under the international energy program.

DEFINITIONS

SEC. 152. As used in this part:

(1) The term "Early Storage Reserve" means that portion of the Strategic Petroleum Reserve which consists of petroleum products stored pursuant to section 155.

(2) The term "importer" means any person who owns, at the first place of storage, any petroleum product imported into the United States.

(3) The term "Industrial Petroleum Reserve" means that portion of the Strategic Petroleum Reserve which consists of petroleum products owned by importers or refiners and acquired, stored, or maintained pursuant to section 156.

(4) The term "interest in land" means any ownership or possessory right with respect to real property, including ownership in fee, an easement, a leasehold, and any subsurface or mineral rights.

(5) The term "readily available inventories" means stocks and supplies of petroleum products which can be distributed or used without affecting the ability of the importer or refiner to operate at normal capacity; such term does not include minimum working inventories or other unavailable stocks.

(6) The term "refiner" means any person who owns, operates, or controls the operation of any refinery.

(7) The term "Regional Petroleum Reserve" means that portion of the Strategic Petroleum Reserve which consists of petroleum products stored pursuant to section 157.

(8) The term "related facility" means any necessary appurtenance to a storage facility, including pipelines, roadways, reservoirs, and salt brine lines.

(9) The term "Reserve" means the Strategic Petroleum Reserve.

(10) The term "storage facility" means any facility or geological formation which is capable of storing significant quantities of petroleum products.

(11) The term "Strategic Petroleum Reserve" means petroleum products stored in storage facilities pursuant to this part; such term includes the Industrial Petroleum Reserve, the Early Storage Reserve, and the Regional Petroleum Reserve.

STRATEGIC PETROLEUM RESERVE OFFICE

SEC. 153. There is established, in the Federal Energy Administration, a Strategic Petroleum Reserve Office. The Administrator, acting through such Office and in accordance with this part, shall exercise authority over the establishment, management, and maintenance of the Reserve.

STRATEGIC PETROLEUM RESERVE

SEC. 154. (a) A Strategic Petroleum Reserve for the storage of up to 1 billion barrels of petroleum products shall be created pursuant to this part. By the end of the 3-year period which begins on the date of enactment of this Act, the Strategic Petroleum Reserve (or the Early Storage Reserve authorized by section 155, if no Strategic Petroleum Reserve Plan has become effective pursuant to the provisions of section 159 (a)) shall contain not less than 150 million barrels of petroleum products.

(b) The Administrator, not later than December 15, 1976, shall prepare and transmit to the Congress, in accordance with section 551, a Strategic Petroleum Reserve Plan. Such Plan shall comply with the provisions of this section and shall detail the Administrator's proposals for designing, constructing, and filling the storage and related facilities of the Reserve.

(c)(1) To the maximum extent practicable and except to the extent that any change in the storage schedule is justified pursuant to subsection (e)(6), the Strategic Petroleum Reserve Plan shall provide that:

(A) within 7 years after the date of enactment of this Act, the volume of crude oil stored in the Reserve shall equal the total volume of crude oil which was imported into the United States during the base period specified in paragraph (2);

(B) within 18 months after the date of enactment of this Act, the volume of crude oil stored in the Reserve shall equal not less than 10 percent of the goal specified in subparagraph (A);

(C) within 3 years after the date of enactment of this Act, the volume of crude oil stored in the Reserve shall equal not less than 25 percent of the goal specified in subparagraph (A); and

(D) within 5 years after the date of enactment of this Act, the volume of crude oil stored in the Reserve shall equal not less than 65 percent of the goal specified in subparagraph (A).

Volumes of crude oil initially stored in the Early Storage Reserve and volumes of crude oil stored in the Industrial Petroleum Reserve, and the Regional Petroleum Reserve shall be credited toward attainment of the storage goals specified in this subsection.

(2) The base period shall be the period of the 3 consecutive months, during the 24-month period preceding the date of enactment of this Act, in which average monthly import levels were the highest.

(d) The Strategic Petroleum Reserve Plan shall be designed to assure, to the maximum extent practicable, that the Reserve will minimize the impact of any interruption or reduction in imports of refined petroleum products and residual fuel oil in any region which the Administrator determines is, or is likely to become, dependent upon such imports for a substantial portion of the total energy requirements of such region. The Strategic Petroleum Reserve Plan shall be designed to assure, to the maximum extent practicable, that each noncontiguous area of the United States which does not have overland access to domestic crude oil production has its component of the Strategic Petroleum Reserve within its respective territory.

(e) The Strategic Petroleum Reserve Plan shall include:

(1) a comprehensive environmental assessment;

(2) a description of the type and proposed location of each storage facility (other than storage facilities of the Industrial Petroleum Reserve) proposed to be included in the Reserve;

(3) a statement as to the proximity of each such storage facility to related facilities;

(4) an estimate of the volumes and types of petroleum products proposed to be stored in each such storage facility;

(5) a projection as to the aggregate size of the Reserve, including a statement as to the most economically-efficient storage levels for each such storage facility;

(6) a justification for any changes, with respect to volumes or dates, proposed in the storage schedule specified in subsection (c), and a program schedule for overall development and completion of the Reserve (taking into account all relevant factors, including cost effectiveness, the need to construct related facilities, and the ability to obtain sufficient quantities of petroleum products to fill the storage facilities to the proposed storage levels);

(7) an estimate of the direct cost of the Reserve, including—

(A) the cost of storage facilities;

(B) the cost of the petroleum products to be stored;

(C) the cost of related facilities; and

(D) management and operation costs;

(8) an evaluation of the impact of developing the Reserve, taking into account—

(A) the availability and the price of supplies and equipment and the effect, if any, upon domestic production of acquiring such supplies and equipment for the Reserve;

(B) any fluctuations in world, and domestic, market prices for petroleum products which may result from the acquisition of substantial quantities of petroleum products for the Reserve;

(C) the extent to which such acquisition may support otherwise declining market prices for such products; and

(D) the extent to which such acquisition will affect competition in the petroleum industry;

(9) an identification of the ownership of each storage and related facility proposed to be included in the Reserve (other than storage and related facilities of the Industrial Petroleum Reserve);

(10) an identification of the ownership of the petroleum products to be stored in the Reserve in any case where such products are not owned by the United States;

(11) a statement of the manner in which the provisions of this part relating to the establishment of the Industrial Petroleum Reserve and the Regional Petroleum Reserve will be implemented; and

(12) a Distribution Plan setting forth the method of drawdown and distribution of the Reserve.

EARLY STORAGE RESERVE

SEC. 155. (a)(1) The Administrator shall establish an Early Storage Reserve as part of the Strategic Petroleum Reserve. The Early Storage Reserve shall be designed to store petroleum products, to the maximum extent practicable, in existing storage capacity. Petroleum products stored in the Early Storage Reserve may be owned by the United States or may be owned by others and stored pursuant to section 156(b).

(2) If the Strategic Petroleum Reserve Plan has not become effective under section 159 (a), the Early Storage Reserve shall contain not lesss than 150 million barrels of petroleum products by the end of the 3-year period which begins on the date of enactment of this Act.

(b) The Early Storage Reserve shall provide for meeting regional needs for residual fuel oil and refined petroleum products in any region which the Administrator determines is, or is likely to become, dependent upon imports if such oil or products for a substantial portion of the total energy requirements of such region.

(c) Within 90 days after the date of enactment of this Act, the Administrator shall prepare and transmit to the Congress an Early Storage Reserve Plan which shall provide for the storage of not less than 150 million barrels of petroleum products by the end of 3 years from the date of enactment of this Act. Such plan shall detail the Administrator's proposals for implementing the Early Storage Reserve requirements of this section. The Early Storage Reserve Plan shall, to the maximum extent practicable, provide for, and set forth the manner in which, Early Storage Reserve facilities will be incorporated into the Strategic Petroleum Reserve after the Strategic Petroleum Reserve Plan has become effective under section 159(a). The Early Storage Reserve Plan shall include, with respect to the Early Storage Reserve, the same or similar assessments, statements, estimates, evaluations, projections, and other information which section 154(e) requires to be included in the Strategic Petroleum Reserve Plan, including a Distribution Plan for the Early Storage Reserve.

INDUSTRIAL PETROLEUM RESERVE

SEC. 156. (a) The Administrator may establish an Industrial Petroleum Reserve as part of the Strategic Petroleum Reserve.

(b) To implement the Early Storage Reserve Plan or the Strategic Petroleum Reserve Plan which has taken effect pursuant to section 159(a), the Administrator may require each importer of petroleum products and each refiner to (1) acquire, and (2) store and maintain in readily available inventories, petroleum products in amounts determined by the Administrator, except that the Administrator may not require any such importer or refiner to store such petroleum products in an amount greater than 3 percent of the amount imported or refined by such person, as the case may be, during the previous calendar year. Petroleum products imported and stored in the Industrial Petroleum Reserve shall be exempt from any tariff or import license fee.

(c) The Administrator shall implement this section in a manner which is appropriate to the maintenance of an economically sound and competitive petroleum industry. The Administrator shall take such steps as are necessary to avoid inequitable economic impacts on refiners and importers, and he may grant relief to any refiner or importer who would otherwise incur special hardship, inequity, or unfair distribution of burdens as the result of any rule, regulation, or order promulgated under this section. Such relief may include full or partial exemption from any such rule, regulation, or order and the insurance of an order permitting such an importer or refiner to store petroleum products owned by such importer or refiner in surplus storage capacity owned by the United States.

REGIONAL PETROLEUM RESERVE

SEC. 157. (a) The Strategic Petroleum Reserve Plan shall provide for the establishment and maintenance of a Regional Petroleum Reserve in, or readily accessible to, each Federal Energy Administration Region, as defined in title 10, Code of Federal Regulations in effect on November 1, 1975, in which imports of residual fuel oil or any refined petroleum product, during the 24-month period preceding the date of computation,

equal more than 20 percent of demand for such oil or product in such regions during such period, as determined by the Administrator. Such volume shall be computed annually.

(b) To implement the Strategic Petroleum Reserve Plan, the Administrator shall accumulate and maintain in or near any such Federal Energy Administration Region described in subsection (a), a Regional Petroleum Reserve containing volumes of such oil or product, described in subsection (a), at a level adequate to provide substantial protection against an interruption or reduction in imports of such oil or product to such region, except that the level of any such Regional Petroleum Reserve shall not exceed the aggregate volume of imports of such oil or product into such region during the period of the 3 consecutive months, during the 24-month period specified in subsection (a), in which average monthly import levels were the highest, as determined by the Administrator. Such volume shall be computed annually.

(c) The Administrator may place in storage crude oil, residual fuel oil, or any refined petroleum product in substitution for all or part of the volume of residual fuel oil or any refined petroleum product stored in any Regional Petroleum Reserve pursuant to the provisions of this section if he finds that such substitution (1) is necessary or desirable for purposes of economy, efficiency, or for other reasons, and (2) may be made without delaying or otherwise adversely affecting the fulfillment of the purpose of the Regional Petroleum Reserve.

OTHER STORAGE RESERVES

SEC. 158. Within 6 months after the Strategic Petroleum Reserve Plan is transmitted to the Congress, pursuant to the requirements of section 154(b), the Administrator shall prepare and transmit to the Congress a report setting forth his recommendations concerning the necessity for, and feasibility of, establishing—

(1) Utility Reserves containing coal, residual fuel oil, and refined petroleum products to be established and maintained by major fossil-fuel-fired baseload electric power generating stations;

(2) Coal Reserves to consist of (A) federally-owned coal which is mined by or for the United States from Federal lands, and (B) Federal lands from which coal could be produced with minimum delay; and

(3) Remote Crude Oil and Natural Gas Reserves consisting of crude oil and natural gas to be acquired and stored by the United States, in place, pursuant to a contract or other agreement or arrangement entered into between the United States and persons who discovered such oil or gas in remote areas.

REVIEW BY CONGRESS AND IMPLEMENTATION

SEC. 159. (a) The Strategic Petroleum Reserve Plan shall not become effective and may not be implemented, unless—

(1) the Administrator has transmitted such Plan to the Congress pursuant to section 154(b); and

(2) neither House of Congress has disapproved (or both Houses have approved) such Plan, in accordance with the procedures specified in section 551.

(b) For purposes of congressional review of the Strategic Petroleum Reserve Plan under subsection (a), the 5 calendar days described in section 551(f)(4)(A) shall be lengthened to 15 calendar days, and the 15 calendar days described in section 551(c) and (d) shall be lengthened to 45 calendar days.

(c) The Administrator may, prior to transmittal of the Strategic Petroleum Reserve Plan, prepare and transmit to the Congress proposals for designing, constructing, and filling storage or related facilities. Any such proposal shall be accompanied by a statement explaining (1) the need for action on such proposals prior to completion of such Plan, (2) the anticipated role of the proposed storage or related facilities in such Plan, and (3) to the maximum extent practicable, the same or similar assessments, statements, estimates, evaluations, projections, and other information which section 154(e) requires to be included in the Strategic Petroleum Reserve Plan.

(d) The Administrator may prepare amendments to the Strategic Petroleum Reserve Plan or to the Early Storage Reserve Plan. He shall transmit any such amendment to the Congress together with a statement explaining the need for such amendment and, to the maximum extent practicable, the same or similar assessments, statements, estimates, evaluations, projections, and other information which section 154(e) requires to be included in the Strategic Petroleum Reserve Plan.

(e) Any proposal transmitted under subsection (c) and any amendment transmitted under subsection (d), other than a technical or clerical amendment or an amendment to the Early Storage Reserve Plan, shall not become effective and may not be implemented unless—

(1) the Administrator has transmitted such proposal or amendment to the Congress in accordance with subsection (c) or (d) (as the case may be), and

(2) neither House of Congress has disapproved (or both Houses of Congress have approved) such proposal or amendment, in accordance with the procedures specified in section 551.

(f) To the extent necessary or appropriate to implement—

(1) the Strategic Petroleum Reserve Plan which has taken effect pursuant to subsection (a);

(2) the Early Storage Reserve Plan;

(3) any proposal described in subsection (c), or any amendment described in subsection (d), which such proposal or amendment has taken effect pursuant to subsection (e); and

(4) any technical or clerical amendment or any amendment to the Early Storage Reserve Plan,

the Administrator may:

(A) promulgate rules, regulations, or orders;

(B) acquire by purchase, condemnation, or otherwise, land or interests in land for the location of storage and related facilities;

(C) construct, purchase, lease, or otherwise acquire storage and related facilities;

(D) use, lease, maintain, sell, or otherwise dispose of storage and related facilities acquired pursuant to this part;

(E) acquire, subject to the provisions of section 160, by purchase, exchange, or otherwise, petroleum products for storage in the Strategic Petroleum Reserve, including the Early Storage Reserve and the Regional Petroleum Reserve;

(F) store petroleum products in storage facilities owned and controlled by the United States or in storage facilities owned by others if such facilities are subject to audit by the United States;

(G) execute any contracts necessary to carry out the provisions of such Strategic Petroleum Reserve Plan, Early Storage Reserve Plan, proposal or amendment;

(H) require any importer of petroleum products or any refiner to (A) acquire, and (B) store and maintain in readily available inventories, petroleum products in the Industrial Petroleum Reserve, pursuant to section 156;

(I) require the storage of petroleum products in the Industrial Petroleum Reserve, pursuant to section 156, on such reasonable terms as the Administrator may specify in storage facilities owned and controlled by the United States or in storage facilities other than those owned by the United States if such facilities are subject to audit by the United States;

(J) require the maintenance of the Industrial Petroleum Reserve;

(K) maintain the Reserve; and

(L) bring an action, whenever he deems it necessary to implement the Strategic Petroleum Reserve Plan, in any court having jurisdiction of such proceedings, to acquire by condemnation any real or personal property, including facilities, temporary use of facilities, or other interests in land, together with any personal property located thereon or used therewith.

(g) Before any condemnation proceedings are instituted, an effort shall be made to acquire the property involved by negotiation, unless, the effort to acquire such property by negotiation would, in the judgment of the Administrator be futile or so time-consuming as to unreasonably delay the implementation of the Strategic Petroleum Reserve Plan, because of (1) reasonable doubt as to the identity of the owners, (2) the large number of persons with whom it would be necessary to negotiate, or (3) other reasons.

PETROLEUM PRODUCTS FOR STORAGE IN THE RESERVE

SEC. 160. (a) The Administrator is authorized, for purposes of implementing the Strategic Petroleum Reserve Plan or the Early Storage Reserve Plan, to place in storage, transport, or exchange—

(1) crude oil produced from Federal lands, including crude oil produced from the Naval Petroleum Reserves to the extent that such production is authorized by law;

(2) crude oil which the United States is entitled to receive in kind as royalties from production on Federal lands; and

(3) petroleum products acquired by purchase, exchange, or otherwise.

(b) The Administrator shall, to the greatest extent practicable, acquire petroleum products for the Reserve, including the Early Storage Reserve and the Regional Petroleum Reserve in a manner consonant with the following objectives:

(1) minimization of the cost of Reserve;

(2) orderly development of the Naval Petroleum Reserves to the extent authorized by law;

(3) minimization of the Nation's vulnerability to a severe energy supply interruption;

(4) minimization of the impact of such acquisition upon supply levels and market forces; and

(5) encouragement of competition in the petroleum industry.

DRAWDOWN AND DISTRIBUTION OF THE RESERVE

SEC. 161. (a) The Administrator may drawdown and distribute the Reserve only in accordance with the provisions of this section.

(b) Except as provided in subsections (c) and (f), no drawdown and distribution of the Reserve may be made except in accordance with the provisions of the Distributor Plan contained in the Strategic Petroleum Reserve Plan which has taken effect pursuant to section 159(a).

(c) Drawdown and distribution of the Early Storage Reserve may be made in accordance with the provisions of the Distribution Plan contained in the Early Storage Reserve Plan until the Strategic Petroleum Reserve Plan has taken effect pursuant to section 159(a).

(d) Neither the Distribution Plan contained in the Strategic Petroleum Reserve Plan nor the Distribution Plan contained in the Early Storage Reserve Plan may be implemented, and no drawdown and distribution of the Reserve or the Early Storage Reserve may be made, unless the President has found that implementation of either such Distribution Plan is required by a severe energy supply interruption or by obligations

of the United States under the international energy program.

(e) The Administrator may, by rule, provide for the allocation of any petroleum product withdrawn from the Strategic Petroleum Reserve in amounts specified in (or determined in a manner prescribed by) and at prices specified in (or determined in a manner prescribed by) such sules. Such price levels and allocation procedures shall be consistent with the attainment, to the maximum extent practicable, of the objectives specified in section 4(b)(1) of the Emergency Petroleum Act of 1973.

(f) The Administrator may permit any importer or refiner who owns any petroleum products stored in the Industrial Petroleum Reserve pursuant to section 156 to remove or otherwise dispose of such products upon such terms and conditions as the Administrator may perscribe.

COORDINATION WITH IMPORT QUOTA SYSTEM

SEC. 162. No quantitative restrictions on the importation of any petroleum product into the United States imposed by law shall apply to volumes of any such petroleum products imported into the United States for storage in the Reserve.

DISCLOSURE, INSPECTION, INVESTIGATION

SEC. 163. (a) The Administrator may require any person to prepare and maintain such records or accounts as the Administrator, by rule, determines necessary to carry out the purposes of this part.

(b) The Administrator may audit the operations of any storage facility in which any petroleum product is stored or required to be stored pursuant to the provisions of this part.

(c) The Administrator may require access to, and the right to inspect and examine, at reasonable times, (1) any records or accounts required to be prepared or maintained pursuant to subsection (a) and (2) any storage facilities subject to audit by the United States under the authority of this part.

NAVAL PETROLEUM RESERVES STUDY

SEC. 164. The Administrator shall, in cooperation and consultation with the Secretary of the Navy and the Secretary of the Interior, develop and submit to the Congress within 180 days after the date of enactment of this Act, a written report recommending procedures for the exploration, development, and production of Naval Petroleum Reserve Number 4. Such report shall include recommendations for protecting the economic, social, and environmental interests of Alaska Natives residing within the Naval Petroleum Reserve Number 4 and analyses of arrangements which provide for (1) participation by private industry and private capital, and (2) leasing to private industry. The Secretary of the Navy and the Secretary of the Interior shall cooperate fully with one another and with the Administrator; the Secretary of the Navy shall provide to the Administrator and Secretary of the Interior all relevant data on Naval Petroleum Reserve Number 4 in order to assist the Administrator in the preparation of such report.

ANNUAL REPORTS

SEC. 165. The Administrator shall report to the President and the Congress, not later than one year after the transmittal of the Strategic Petroleum Reserve Plan to the Congress and each year thereafter, on all actions taken to implement this part. Such report shall include—

(1) a detailed statement of the status of the Strategic Petroleum Reserve;

(2) a summary of the actions taken to develop and implement the Strategic Petroleum Reserve Plan and the Early Storage Reserve Plan;

(3) an analysis of the impact and effectiveness of such actions on the vulnerability of the United States to interruption in supplies of petroleum products;

(4) a summary of existing problems with respect to further implementation of the Early Storage Reserve Plan and the Strategic Petroleum Reserve Plan; and

(5) any recommendations for supplemental legislation deemed necessary or appropriate by the Administrator to implement the provisions of this part.

AUTHORIZATION OF APPROPRIATIONS

SEC. 166. There are authorized be be appropriated—

(1) such funds as are necessary to develop and implement the Early Storage Reserve Plan (including planning, administration, acquisition, and construction of storage and related facilities) and as are necessary to permit the acquisition of petroleum products for storage in the Early Storage Reserve or, if the Strategic Petroleum Reserve Plan has become effective under section 159(a), for storage in the Strategic Petroleum Reserve in the minimum volume specified in section 154(a) or 155(a)(2), whichever is applicable; and

(2) $1,100,000,000 to remain available until expended to carry out the provisions of this part to develop the Strategic Petroleum Reserve Plan, and to implement such plan which has taken effect pursuant to section 159(a), including planning, administration, and acquisition and construction of storage and related facilities, but no funds are authorized to be appropriated under this paragraph for the purchase of petroleum products for storage in the Strategic Petroleum Reserve.

TITLE II—STANDBY ENERGY AUTHORITIES

PART A—GENERAL EMERGENCY AUTHORITIES

CONDITIONS OF EXERCISE OF ENERGY CONSERVATION AND RATIONING AUTHORITIES

SEC. 201. (a)(1) Within 180 days after the date of enactment of this Act, the President shall transmit to the Congress pursuant to subsection (b)(1) one or more energy conservation contingency plans and a rationing contingency plan. The President may at any time submit additional contingency plans. A contingency plan may become effective only as provided in this section. Such plan may remain in effect for a period specified in the plan but not more than 9 months, unless earlier rescinded by the President.

(2) For purposes of this section, the term "contingency plan" means—

(A) an energy conservation contingency plan prescribed under section 202; or

(B) a rationing contingency plan prescribed under section 203.

(b) Except as otherwise provided in subsection (d) or (e) and subject to the requirements of subsection (c), no contingency plan may become effective, unless—

(1) the President has transmitted such contingency plan to the Congress in accordance with section 552(a);

(2) such contingency plan has been approved by a resolution by each House of Congress in accordance with the procedures specified in section 552; and

(3) after approval of such contingency plan the President—

(A) has found that putting such contingency plan into effect is required by a severe energy supply interruption or in order to fulfill obligations of the United States under the international energy program, and

(B) has transmitted such finding to the Congress, together with a statement of the effective date and manner for exercise of such plan.

(c) In addition to the requirements of subsection (b), a rationing contingency plan approved under subsection (b)(2) may not become effective unless—

(1) the President has transmitted to the Congress in accordance with section 551(b) a request to put such rationing contingency plan into effect, and

(2) neither house of Congress has disapproved (or both Houses have approved) such request in accordance with the procedures specified in section 551.

(d)(1) Except as provided in paragraph (2) or (3), a contingency plan may not be amended unless the President has transmitted such amendment to the Congress in accordance with section 552 and each House of Congress has approved such amendment in accordance with the procedures specified in section 552.

(2) An amendment to a contingency plan which is transmitted to the Congress during any period in which such plan is in effect may take effect if the President has transmitted such amendment to the Congress in accordance with section 551(b) and neither House of Congress has disapproved (or both Houses have approved) such amendment in accordance with the procedures specified in section 551.

(3) The President may prescribe technical or clerical amendments to a contingency plan in accordance with section 523.

(e) Beginning at any time during the 90-day period which begins on the date of enactment of this Act, the President may put a contingency plan into effect for a period of not more than 60 days if—

(1) The President—

(A) has found that putting such contingency plan into effect is required by a severe energy supply interruption or is necessary to comply with obligations of the United States under the international energy program; and

(B) has transmitted such contingency plan to the Congress in accordance with section 551(b), together with a request to put such plan into effect; and

(2) neither House of Congress has disapproved (or both Houses have approved) such request in accordance with the procedures specified in section 551.

(f) Any contingency plan which the President transmits to the Congress pursuant to subsection (b)(1) or (e)(1)(B) shall contain a specific statement explaining the need for and the rationale and operation of such plan and shall be based upon a consideration of, and to the extent practicable, be accompanied by an evaluation of, the potential economic impacts of such plan, including an analysis of—

(1) any effects of such plan on—

(A) vital industrial sectors of the economy;

(B) employment (on a national and regional basis);

(C) the economic vitality of States and regional areas;

(D) the availability and price of consumer goods and services; and

(E) the gross national product; and

(2) any potential anticompetitive effects.

ENERGY CONSERVATION CONTINGENCY PLANS

SEC. 202. (a)(1) The President shall prescribe, in accordance with section 523(a), one or more energy conservation contingency plans. As used in this section, the term "energy conservation contingency plan" means a plan which imposes reasonable restrictions on the public or private use of energy which are necessary to reduce energy consumption. In prescribing energy conservation contingency plans, the President shall take into consideration the mobility needs of the handicapped, as defined in section 203(a)(2)(B).

(2) An energy conservation contingency plan prescribed under this section may not—

(A) impose rationing or any tax, tariff, or user fee;

(B) contain any provision respecting the price of petroleum products; or

(C) provide for a credit or deduction in computing any tax.

(b) An energy conservation contingency plan shall apply in each State or political subdivision thereof, except such plan may provide for procedures for exempting any State or political subdivision thereof from

such plan, in whole or part, during a period for which (1) the President determines a comparable program of such State or political subdivision is in effect, or (2) the President finds special circumstances exist in such State or political subdivision.

(c) Any energy conservation contingency plan shall not deal with more than one logically consistent subject matter.

RATIONING CONTINGENCY PLAN

SEC. 203. (a)(1) The President shall prescribe, by rule in accordance with section 523(a) of this Act, a rationing contingency plan which shall, for purposes of enforcement under section 5 of the Emergency Petroleum Allocation Act of 1973, be deemed a part of the regulation under section 4(a) of the Emergency Petroleum Allocation Act of 1973 and which shall provide, consistent with the attainment, to the maximum extent practicable, of the objectives specified in section 4(b)(1) of such Act—

(A) for the establishment of a program for the rationing and ordering of priorities among classes of end-users of gasoline and diesel fuel used in motor vehicles, and

(B) for the assignment of rights, and evidence of such rights, to end-users of gasoline and such diesel fuel, entitling such end-users to obtain gasoline or such diesel fuel in precedence to other classes of end-users not similarly entitled.

(2)(A) For purposes of paragraph (1), the objectives specified in section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973 shall be deemed to include consideration of the mobility needs of handicapped persons and their convenience in obtaining the end-user's rights specified in paragraph (1).

(B) For purposes of this part, the term "handicapped person" means any individual who, by reason of disease, injury, age, congenital malfunction, or other permanent incapacity or disability, is unable without special facilities, planning or design to utilize mass transportation vehicles, facilities, and services and who has a substantial, permanent impediment to mobility.

(b) Any finding required to be made by the President pursuant to section 201(b)(3) and any request to put a rationing contingency plan into effect pursuant to section 201(e) shall be accompanied by a finding of the President that such plan is necessary to attain, to the maximum extent practicable, the objectives specified in section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973 and the purposes of this Act.

(c) The President shall, by order under section 4 of the Emergency Petroleum Allocation Act of 1973, for the purpose of carrying out a rationing contingency plan which is in effect, cause such adjustments to be made in the allocations made pursuant to the regulation under section 4(a) of such Act as the President determines to be necessary to carry out the purposes of this section and to be consistent with the attainment, to the maximum extent practicable, of the objectives specified in section 4(b)(1) of such Act and the purposes of this Act.

(d)(1) The President shall, to the extent practicable, provide for the use of local boards described in paragraph (2) with authority to—

(A) receive petitions from any end-user of gasoline and diesel fuel used in motor vehicles with respect to the priority and entitlement of such user under a rationing contingency plan, and

(B) order a reclassification or modification of any determination made under a rationing contingency plan with respect to such end-user's rationing priority or rights specified in paragraph (1).

Such boards shall operate under the procedures prescribed by the President by rule.

(2) Not later than 30 days after the date of the approval of a rationing contingency plan pursuant to section 201(b)(2), the President shall, by rule, prescribe—

(A) criteria for delegation of his functions, in whole or part, under this Act with respect to such rationing contingency plan to officers or local boards (of balanced composition reflecting the community as a whole) of States or political subdivisions thereof; and

(B) procedures for petitioning for the receipt of such delegation.

(3)(A) Officers or local boards of States or political subdivisions thereof, following the establishment of criteria and procedures under paragraph (2), may petition the President to receive delegation under such paragraph.

(B) The President shall, within 30 days after the date of the receipt of any such petition which is properly submitted, grant or deny such petition.

(e) No rationing contingency plan under this section may—

(1) impose any tax,

(2) provide for a credit or deduction in computing any tax, or

(3) impose any user fee, except to the extent necessary to defray the cost of administering the rationing contingency plan or to provide for initial distribution of end-user rights specified in paragraph (1).

(f) Notwithstanding section 531, all authority to carry out any rationing contingency plan shall expire on the same date as authority to issue and enforce rules and orders under the Emergency Petroleum Allocation Act of 1973.

PART B—AUTHORITIES WITH RESPECT TO INTERNATIONAL ENERGY PROGRAM

INTERNATIONAL OIL ALLOCATION

SEC. 251. (a) The President may, by rule, require that persons engaged in producing transporting, refining, distributing, or storing petroleum products, take such action as he determines to be necessary for implementation of the obligations of the United States under chapters III and IV of the international energy program insofar as such obligations relate to the international allocation of petroleum products. Allocation under such rule shall be in such amounts and at such prices as are specified in (or determined in a manner prescribed by) such rule. Such rule may apply to any petroleum product owned or controlled by any person described in the first sentence of this subsection who is subject to the jurisdiction of the United States, including any petroleum product destined, directly or indirectly, for import into the United States or any foreign country, or produced in the United States. Subject to subsection (b)(2), such a rule shall remain in effect until amended or rescinded by the President.

(b)(1) No rule under subsection (a) may take effect unless the President—

(A) has transmitted such rule to the Congress;

(B) has found that putting such rule into effect is required in order to fulfill obligations of the United States under the international energy program; and

(C) has transmitted such finding to the Congress, together with a statement of the effective date and manner for exercise of such rule.

(2) No rule under subsection (b) may be put into effect or remain in effect after the expiration of 12 months after the date such rule was transmitted to Congress under paragraph (1)(A).

(c)(1) Any rule under this section shall be consistent with the attainment, to the maximum extent practicable, of the objectives specified in section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973.

(2) No officer or agency of the United States shall have any authority, other than authority under this section, to require that petroleum products be allocated to other countries for the purpose of implementation of the obligations of the United States under the international energy program.

(d) Neither section 103 of this Act nor section 28(u) of the Mineral Leasing Act of 1920 shall preclude the allocation and export, to other countries in accordance with this section, of petroleum products produced in the United States.

INTERNATIONAL VOLUNTARY AGREEMENTS

SEC. 252. (a) Effective 90 days after the date of enactment of this Act, the requirements of this section shall be the sole procedures applicable to—

(1) the development or carrying out of voluntary agreements and plans of action to implement the allocation and information provisions of the international energy program, and

(2) the availability of immunity from the antitrust laws with respect to the development or carrying out of such voluntary agreements and plans of action.

(b) The Administrator, with the approval of the Attorney General, after each of them has consulted with the Federal Trade Commission and the Secretary of State, shall prescribe, by rule, standards and procedures by which persons engaged in the business of producing, transporting, refining, distributing, or storing petroleum products may develop and carry out voluntary agreements, and plans of action, which are required to implement the allocation and information provisions of the international energy program.

(c) The standards and procedures prescribed under subsection (b) shall include the following requirements:

(1)(A)(i) Except as provided in clause (ii) or (iii) of this subparagraph, meetings held to develop or carry out a voluntary agreement or plan of action under this subsection shall permit attendance by representatives of committees of Congress and interested persons, including all interested segments of the petroleum industry, consumers, and the public; shall be preceded by timely and adequate notice with identification of the agenda of such meeting to the Attorney General, the Federal Trade Commission, committees of Congress, and (except during an international energy supply emergency with respect to meetings to carry out a voluntary agreement or to develop or carry out a plan of action the public; and shall be initiated and chaired by a regular full-time Federal employee.

(ii) Meetings of bodies created by the International Energy Agency established by the international energy program need not be open to interested persons and need not be initiated and chaired by a regular full-time Federal employee.

(iii) The President, in consultation with the Administrator, the Secretary of State, and the Attorney General, may determine that a meeting held to carry out a voluntary agreement or to develop or carry out a plan of action shall not be open to interested persons or that attendance by interested persons may be limited, if the President finds that a wider disclosure would be detrimental to the foreign policy interests of the United States.

(B) No meetings may be held to develop or carry out a voluntary agreement or plan of action under this section unless a regular full-time Federal employee is present.

(2) Interested persons permitted to attend such a meeting shall be afforded an opportunity to present, in writing and orally, data, views, and arguments at such meetings, subject to any reasonable limitations with respect to the manner of presentation of data, views, and arguments as the Administrator may impose.

(3) A full and complete record, and where practicable a verbatim transcript, shall be

kept of any meeting held, and a full and complete record shall be kept of any communication (other than in a meeting) made, between or among participants or potential participants, to develop, or carry out a voluntary agreement or a plan of action under this action. Such record or transcript shall be deposited, together with any agreement resulting therefrom, with the Administrator, and shall be available to the Attorney General and the Federal Trade Commission. Such records or transcripts shall be available for public inspection and copying in accordance with section 552 of title 5, United States Code: except that (A) matter may not be withheld from disclosure under section 552 (b) of such title on grounds other than the grounds specified in section 552(b)(1), (b)(3), or so much of (b)(4) as relates to trade secrets; and (B) in the exercise of authority under section 552(b)(1), the President shall consult with the Secretary of State, the Administrator, and the Attorney General with respect to questions relating to the foreign policy interests of the United States.

(4) No provision of this section may be exercised so as to prevent representatives of committees of Congress from attending meetings to which this section applies, or from having access to any transcripts, records, and agreements kept or made under this section.

(d)(1) The Attorney General and the Federal Trade Commission shall participate from the beginning in the development, and when practicable, in the 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 part. A voluntary agreement or plan of action under this section may not be carried out unless approved by the Attorney General, after consultation with the Federal Trade Commission. Prior to the expiration of the period determined under paragraph (2), the Federal Trade Commission shall transmit to the Attorney General its views as to whether such an agreement or plan of action should be approved, and shall publish such views in the Federal Register. The Attorney General, in consultation with the Federal Trade Commission, the Secretary of State, and the Administrator, shall have the right to review, amend, modify, disapprove, or revoke, on his own motion or upon the request of the Federal Trade Commission or any interested person, any voluntary agreement or plan of action at any time, and, if revoked, thereby withdraw prospectively any immunity which may be conferred by subsection (f) or (k).

(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; except that during an international energy supply emergency, the Administrator, subject to approval of the Attorney General, may reduce such 20-day period. Any such agreement or plan of action shall be available for public inspection and copying, except that a plan of action shall be so available only to the extent to which records or transcripts are also available as provided in the last sentence of subsection (c)(3). Any action taken pursuant to such voluntary agreement or plan of action shall be reported to the Attorney General and the Federal Trade Commission pursuant to such regulations as shall be prescribed under paragraphs (3) and (4) of subsection (e).

(3) A plan of action may not be approved by the Attorney General under this subsection unless such plan (A) describes the types of substantive actions which may be taken under the plan, and (B) is as specific in its description of proposed substantive actions as is reasonable in light of known circumstances.

(e)(1) The Attorney General and the Federal Trade Commission shall monitor the development and carrying out of voluntary agreements and plans of action authorized under this section in order to promote competition and to prevent anticompetitive practices and effects, while achieving substantially the purposes of this part.

(2) In addition to any requirement specified under subsections (b) and (c) of this section and in order to carry out the purposes of this section, the Attorney General, in consultation with the Federal Trade Commission and the Administrator, shall promulgate rules concerning the maintenance of necessary and appropriate records related to the development and carrying out of voluntary agreements and plans of action authorized pursuant to this section.

(3) Persons developing or carrying out voluntary agreements and plans of action authorized pursuant to this section shall maintain such records as are required by rules promulgated under paragraph (2). 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 Attorney General and the Federal Trade Commission may each prescribe such rules as may be necessary or appropriate to carry out their respective responsibilities under this section. They may both utilize for such purposes and for purposes of enforcement any powers conferred upon the Federal Trade Commission or the Department of Justice or both by the antitrust laws or the Antitrust Civil Process Act; and wherever any such law refers to "the purposes of this Act" or like terms, the reference shall be understood to include this section.

(f)(1) There shall be available as a defense to any civil or criminal action brought under the antitrust laws (or any similar State law) in respect of actions taken to develop or carry out a voluntary agreement or plan of action by persons engaged in the business of producing, transporting, refining, distributing, or storing petroleum products (provided that such actions were not taken for the purpose of injuring competition) that—

(A) such actions were taken—

(i) in the course of developing a voluntary agreement or plan of action pursuant to this section, or

(ii) to carry out a voluntary agreement or plan of action authorized and approved in accordance with this section, and

(B) such persons complied with the requirements of this section and the rules promulgated hereunder.

(2) Except in the case of actions taken to develop a voluntary agreement or plan of action, the defense provided in this subsection shall be available only if the person asserting the defense demonstrates that the actions were specified in, or within the reasonable contemplation of, an approved plan of action.

(3) Persons interposing the defense provided by this subsection shall have the burden of proof, except that the burden shall be on the person against whom the defense is asserted with respect to whether the actions were taken for the purpose of injuring competition.

(g) No provision of this section shall be construed as granting immunity for, or as limiting or in any way affecting any remedy or penalty which may result from any legal action or proceeding arising from, any act or practice which occurred prior to the date of enactment of this Act or subsequent to its expiration or repeal.

(h) Upon the expiration of the 90-day period which begins on the date of enactment of this Act, the provisions of sections 708 and 708A (other than 708A(o)) of the Defense Production Act of 1950 shall not apply to any agreement or action undertaken for the purpose of developing or carrying out (1) the international energy program, or (2) any allocation, price control, or similar program with respect to petroleum products under this Act or under the Emergency Petroleum Allocation Act of 1973. For purposes of section 708A(o) of the Defense Production Act of 1950, the effective date of the provisions of this Act which relate to international voluntary agreements to carry out the International Energy Program shall be deemed to be 90 days after the date of enactment of this Act.

(i) The Attorney General and the Federal Trade Commission shall each submit to the Congress and to the President, at least once every 6 months, a report on the impact on competition and on small business of actions authorized by this section.

(j) The authority granted by this section shall terminate June 30, 1979.

(k) In any action in any Federal or State court for breach of contract, there shall be available as a defense that the alleged breach of contract was caused predominantly by action taken during an international energy supply emergency to carry out a voluntary agreement or plan of action authorized and approved in accordance with this section.

(l) As used in this section and section 254:

(1) The term "international energy supply emergency" means any period (A) beginning on any date which the President determines allocation of petroleum products to nations participating in the international energy program is required by chapters III and IV of such program, and (B) ending on a date which he determines that such allocation is no longer required. Such a period may not exceed 90 days, but the President may establish one or more additional 90-day periods by making anew the determination under subparagraph (A) of the preceding sentence. Any determination respecting the beginning or end of any such period shall be published in the Federal Register.

(2) The term "allocation and information provisions of the international energy program" means the provisions of the international energy program which relate to international allocation of petroleum products and to the information system provided in such program.

ADVISORY COMMITTEES

SEC. 253. (a) To achieve the purposes of the international energy program with respect to international allocation of petroleum products and the information system providing in such program, the Administrator may provide for the establishment of such advisory committees as he determines are necessary. In addition to the requirements specified in this section, such advisory committees shall be subject to the provisions of section 17 of the Federal Energy Administration Act of 1974 (whether or not such Act or any of its provisions expire or terminate before June 30, 1985); shall be chaired by a regular fulltime Federal employee; and shall include representatives of the public. The meetings of such committees shall be open to the public. 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.

(b) A verbatim transcript shall be kept of such advisory committee meetings, and shall be deposited with the Attorney General and the Federal Trade Commission. Such transcript shall be made available for public inspection and copying in accordance with section 552 of title 5, United States Code, except that matter may not be withheld from disclosure under section 552(b) of such title on

grounds other than the grounds specified in section 552(b)(1), (b)(3), and so much of (b)(4) as relates to trade secrets, or pursuant to a determination under subsection (c).

(c) The President, after consultation with the Secretary of State, the Federal Trade Commission, the Attorney General, and the Administrator, may suspend the application of—

(1) sections 10 and 11 of the Federal Advisory Committee Act,

(2) subsections (b) and (c) of section 17 of the Federal Energy Administration Act of 1974,

(3) the requirements under subsection (a) of this section that meetings be open to the public, and

(4) the second sentence of subsection (b);

if the President determines with respect to a particular meeting, (A) that such suspension is essential to the developing or carrying out of the international energy program, (B) that such suspension relates solely to the purpose of international allocation of petroleum products and the information system provided in such program, and (C) that the meeting deals with matters described in section 552(b)(1) of title 5, United States Code. Such determination by the President shall be in writing, shall set forth a detailed explanation of reasons justifying the granting of such suspension, and shall be published in the Federal Register at a reasonable time prior to the effective date of any such suspension.

EXCHANGE OF INFORMATION

SEC. 254. (a)(1) Except as provided in subsections (b) and (c), the Administrator, after consultation with the Attorney General, may provide to the Secretary of State, and the Secretary of State may transmit to the International Energy Agency established by the international energy program, the information and data related to the energy industry certified by the Secretary of State as required to be submitted under the international energy program.

(2)(A) Except as provided in subparagraph (B) of this paragraph, any such information or data which is geological or geophysical information or a trade secret or commercial or financial information to which section 552(b)(9) or (b)(4) of title 5, United States Code applies shall, prior ot such transmittal, be aggregated, accumulated, or otherwise reported in such manner as to avoid, to the fullest extent feasible, identification of any person from whom the United States obtained such information or data, and in the case of geological or geophysical information, a competitive disadvantage to such person.

(B)(i) Notwithstanding subparagraph (A) of this paragraph, during an international energy supply emergency, any such information or data with respect to the international allocation of petroleum products may be made available to the International Energy Agency if otherwise authorized to be made available to such Agency by paragraph (1) of this subsection.

(ii) Subparagraph (A) shall not apply to information described in subparagraph (A) (other than geological or geophysical information) if the President certifies, after opportunity for presentation of views by interested persons, that the International Energy Agency has adopted and is implementing security measures which assure that such information will not be disclosed by such Agency or its employees to any person or foreign country without having been aggregated, accumulated or otherwise reported in such manner as to avoid identification of any person from whom the United States obtained such information or data.

(3)(A) Within 90 days after the date of enactment of this Act, and periodically thereafter, the President shall review the operation of this section and shall determine whether other signatory nations to the international energy program are transmitting information and data to the International Energy Agency in substantial compliance with such program. If the President determines that other nations are not so complying, paragraph (2)(B)(ii) shall not apply until he determines other nations are so complying.

(B) Any person who believes he has been or will be damaged by the transmittal of information or data pursuant to this section shall have the right to petition the President and to request changes in procedures which will protect such person from any competitive damage.

(b) If the President determines that the transmittal of data or information pursuant to the authority of this section would prejudice competition, violate the antitrust laws, or be inconsistent with United States national security interests, he may require that such data or information not be transmitted.

(c) Information and data the confidentiality of which is protected by statute shall not be provided by the Administrator to the Secretary of State under subsection (a) of this section for transmittal to the International Energy Agency, unless the Administrator has obtained the specific concurrence of the head of any department or agency which has the primary statutory authority for the collection, gathering, or obtaining of such information and data. In making a determination to concur in providing such information and data, the head of any department or agency which has the primary statutory authority for the collection, gathering, or obtaining of such information and data shall consider the purposes for which such information and data were collected, gathered, and obtained, the confidentiality provisions of such statutory authority, and the international obligations of the United States under the international energy program with respect to the transmittal of such information and data to an international organization or foreign country.

(d) For the purposes of carrying out the obligations of the United States under the international energy program, the authority to collect data granted by section 11 and 13 of the Energy Supply and Environmental Coordination Act and the Federal Energy Administration Act of 1974, respectively, shall continue in full force and effect without regard to the provisions of such Acts relating to their expiration.

(e) The authority under this section to transmit information shall be subject to any limitations on disclosure contained in other laws, except that such authority may be exercised without regard to—

(1) section 11(d) of the Energy Supply and Environmental Coordination Act of 1974;

(2) section 14(b) of the Federal Energy Administration Act of 1974;

(3) section 7 of the Export Administration Act of 1969;

(4) section 9 of title 13, United States Code;

(5) section 1 of the Act of January 27, 1938 (15 U.S.C. 176(a)); and

(6) section 1905 of title 18, United States Code.

RELATIONSHIP OF THIS TITLE TO THE INTERNATIONAL ENERGY AGREEMENT

SEC. 255. The purpose of the Congress in enacting this title is to provide standby energy authority to deal with energy shortage conditions and to minimize economic dislocations and adverse impacts on employment. While the authorities contained in this title may, to the extent authorized by this title, be used to carry out obligations incurred by the United States in connection with the International Energy Program, this title shall not be construed in any way as advice and consent, ratification, endorsement, or other form of congressional approval of the specific terms of such program.

TITLE III—IMPROVING ENERGY EFFICIENCY

PART A—AUTOMOTIVE FUEL ECONOMY

AMENDMENT TO MOTOR VEHICLE INFORMATION AND COST SAVINGS ACT

SEC. 301. The Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.) is amended by inserting "(except part A of title V)" after "SEC. 2. For the purpose of this Act" in section 2 thereof and by adding at the end of such Act the following new title:

"TITLE V—IMPROVING AUTOMOTIVE EFFICIENCY

"PART A—AUTOMOTIVE FUEL ECONOMY

"DEFINITIONS

"SEC. 501. For purposes of this part:

"(1) The term 'automobile' means any 4-wheeled vehicle propelled by fuel which is maufactured primarily for use on public streets, roads, and highways (except any vehicle operated exclusively on a rail or rails), and

"(A) which is rated at 6,000 lbs. gross vehicle weight or less, or

"(B) which—

"(i) is rated at more than 6,000 lbs. gross vehicle weight but less than 10,000 lbs. gross vehicle weight,

"(ii) is a type of vehicle for which the Secretary determines, by rule, average fuel economy standards under this part are feasible, and

"(iii) is a type of vehicle for which the Secretary determines, by rule, average fuel economy standards will result in significant energy conservation, or is a type of vehicle which the Secretary determines is substantially used for the same purposes as vehicles described in subparagraph (A) of this paragraph.

The Secretary may prescribe such rules as may be necessary to implement this paragraph.

"(2) The term 'passenger automobile' means any automobile (other than an automobile capable of off-highway operation) which the Secretary determines by rule is manufactured primarily for use in the transportation of not more than 10 individuals.

"(3) The term 'automobile capable of off-highway operation' means any automobile which the Secretary determines by rule—

"(A) has a significant feature (other than 4-wheel drive) which is designed to equip such automobile for off-highway operation, and

"(B) either—

"(i) is a 4-wheel drive automobile, or

"(ii) is rated at more than 6,000 pounds gross vehicle weight.

"(4) The term 'average fuel economy' means average fuel economy, as determined under section 503.

"(5) The term 'fuel' means gasoline and diesel oil. The Secretary may, by rule, include any other liquid fuel or any gaseous fuel within the meaning of the term 'fuel' if he determines that such inclusion is consistent with the need of the Nation to conserve energy.

"(6) The term 'fuel economy' means the average number of miles traveled by an automobile per gallon of gasoline (or equivalent amount of other fuel) consumed, as determined by the EPA Administrator in accordance with procedures established under section 503(d).

"(7) The term 'average fuel economy standard' means a performance standard which is applicable to a manufacturer in a model year.

"(8) The term 'manufacturer' means any person engaged in the business of manufac-

turing automobiles. The Secretary shall prescribe rules for determining, in cases where more than one person is the manufacturer of an automobile, which person is to be treated as the manufacturer of such automobile for purposes of this part.

"(9) The term 'manufacture' (except for purposes of section 502(c)) means to produce or assemble in the customs territory of the United States, or to import.

"(10) The term 'import' means to import into the customs territory of the United States.

"(11) The term 'model type' means a particular class of automobile as determined by rule, by the EPA Administrator, after consultation and coordination with the Secretary.

"(12) The term 'model year', with reference to any specific calendar year, means a manufacturer's annual production period (as determined by the EPA Administrator) which includes January 1 of such calendar year. If a manufacturer has no annual production period, the term 'model year' means the calendar year.

"(13) The term 'Secretary' means the Secretary of Transportation.

"(14) The term 'EPA Administrator' means the Administrator of the Environmental Protection Agency.

"AVERAGE FUEL ECONOMY STANDARDS APPLICABLE TO EACH MANUFACTURER

"SEC. 502. (a)(1) Except as otherwise provided in paragraph (4) or in subsection (c) or (d), the average fuel economy for passenger automobiles manufactured by any manufacturer in any model year after model year 1977 shall not be less than the number of miles per gallon established for such model year under the following table:

"Model year:	Average fuel economy standard (in miles per gallon)
1978	18.0.
1979	19.0.
1980	20.0.
1981	Determined by Secretary under paragraph (3) of this subsection.
1982	Determined by Secretary under paragraph (3) of this subsection.
1983	Determined by Secretary under paragraph (3) of this subsection.
1984	Determined by Secretary under paragraph (3) of this subsection.
1985 and thereafter	27.5.

"(2) Not later than January 15 of each year, beginning in 1977, the Secretary shall transmit to each House of Congress, and publish in the Federal Register, a review of average fuel economy standards under this part. The review required to be transmitted not later than January 15, 1979, shall include a comprehensive analysis of the program required by this part. Such analysis shall include an assessment of the ability of manufacturers to meet the average fuel economy standard for model year 1985 as specified in paragraph (1) of this subsection, and any legislative recommendations the Secretary or the EPA Administrator may have for improving the program required by this part.

"(3) Not later than July 1, 1977, the Secretary shall prescribe, by rule, average fuel economy standards for passenger automobiles manufactured in each of the model years 1981 through 1984. Any such standard shall apply to each manufacturer (except as provided in subsection (c)), and shall be set for each such model year at a level which the Secretary determines (A) is the maximum feasible average fuel economy level, and (B) will result in steady progress toward meeting the average fuel economy standard established by or pursuant to this subsection for model year 1985.

"(4) The Secretary may, by rule, amend the average fuel economy standard specified in paragraph (1) for model years 1985, or for any subsequent model year, to a level which he determines is the maximum feasible average fuel economy level for such model year, except that any amendment which has the effect of increasing an average fuel economy standard to a level in excess of 27.5 miles per gallon, or of decreasing any such standard to a level below 26.0 miles per gallon, shall be submitted to the Congress in accordance with section 551 of the Energy Policy and Conservation Act, and shall not take effect if either House of the Congress disapproves such amendment in accordance with the procedures specified in such section.

"(5) For the purposes of considering any modification which is submitted to the Congress under paragraph (4), the 5 calendar days specified in section 551(f)(4)(A) of the Energy Policy and Conservation Act shall be lengthened to 20 calendar days, and the 15 calendar days specified in section 551(c) and (5) of such Act shall be lengthened to 60 calendar days.

"(b) The Secretary shall, by rule, prescribe average fuel economy standards for automobiles which are not passenger automobiles and which are manufactured by any manufacturer in each model year which begins more than 30 months after the date of enactment of this title. Such rules may provide for separate standards for different classes of such automobiles (as determined by the Secretary), and shall be set at a level which the Secretary determines is the maximum feasible average fuel economy level which such manufacturers are able to achieve in each model year to which this subsection applies. Any standard applicable to a model year under this subsection shall be prescribed at least 18 months prior to the beginning of such model year.

"(c) On application of a manufacturer who manufactured (whether or not in the United States) fewer than 10,000 passenger automobiles in the second model year preceding the model year for which the application is made, the Secretary may, by rule, exempt such manufacturer from subsection (a). An application for such an exemption shall be submitted to the Secretary, and shall contain such information as the Secretary may require by rule. Such exemption may only be granted if the Secretary determines that the average fuel economy standard otherwise applicable under subsection (a) is more stringent than the maximum feasible average fuel economy level which such manufacturer can attain. The Secretary may not issue exemptions with respect to a model year unless he establishes, by rule, alternative average fuel economy standards for passenger automobiles manufactured by manufacturers which receive exemptions under this subsection. Such standards may be established for an individual manufacturer, for all automobiles to which this subsection applies, or for such classes of such automobiles as the Secretary may define by rule. Each such standard shall be set at a level which the Secretary determines is the maximum feasible average fuel economy level for the manufacturers to which the standard applies. An exemption under this subsection shall apply to a model year only if the manufacturer manufactures (whether or not in the United States) fewer than 10,000 passenger automobiles in such model year.

"(d)(1) Any manufacturer may apply to the Secretary for modification of an average fuel economy standard applicable under subsection (a) to such manufacturer for model year 1978, 1979, or 1980. Such application shall contain such information as the Secretary may require by rule, and shall be submitted to the Secretary within 24 months before the beginning of the model year for which such modification is requested.

"(2)(A) If a manufacturer demonstrates and the Secretary finds that—

"(i) a Federal standards fuel economy reduction is likely to exist for such manufacturer for the model year to which the application relates, and

"(ii) such manufacturer applied a reasonably selected technology.

the Secretary shall, by rule, reduce the average fuel economy standard applicable under subsection (a) to such manufacturer by the amount of such manufacturer's Federal standards fuel economy reduction, rounded off to the nearest one-tenth mile per gallon (in accordance with rules of the Secretary). To the maximum extent practicable, prior to making a finding under this paragraph with respect to an application, the Secretary shall request, and the EPA Administrator shall supply, test results collected pursuant to section 503(d) of this Act for all automobiles covered by such application.

"(B)(i) If the Secretary does not find that a Federal standards fuel economy reduction is likely to exist for a manufacturer who filed an application under paragraph (1), he shall deny the application of such manufacturer.

"(ii) If the Secretary—

"(I) finds that a Federal standards fuel economy reduction is likely to exist for a manufacturer who filed an application under paragraph (1), and

"(II) does not find that such manufacturer applied a reasonably selected technology.

the average fuel economy standard applicable under subsection (a) to such manufacturer shall, by rule, be reduced by an amount equal to the Federal standards fuel economy reduction which the Secretary finds would have resulted from the application of a reasonably selected technology.

"(3) For purposes of this subsection:

"(A) The term 'reasonably selected technology' means a technology which the Secretary determines it was reasonable for a manufacturer to select, considering (i) the Nation's need to improve the fuel economy of its automobiles, and (ii) the energy savings, economic costs, and lead-time requirements associated with alternative technologies practicably available to such manufacturer.

"(B) The term 'Federal standards fuel economy reduction' means the sum of the applicable fuel economy reductions determined under subparagraph (C).

"(C) The term 'applicable fuel economy reduction' means a number of miles per gallon equal to—

"(i) the reduction in a manufacturer's average fuel economy in a model year which results from the application of a category of Federal standards applicable to such model year, and which would not have occurred had Federal standards of such category applicable to model year 1975 remained the only standards of such category in effect, minus

"(ii) 0.5 mile per gallon.

"(D) Each of the following is a category of Federal standards:

"(i) Emissions standards under section 202 of the Clean Air Act, and emissions standards applicable by reason of section 209(b) of such Act.

"(ii) Motor vehicle safety standards under the National Traffic and Motor Vehicle Safety Act of 1966.

"(iii) Noise emission standards under section 6 of the Noise Control Act of 1972.

"(iv) Property loss reduction standards under title I of this Act.

"(E) In making the determination under this subparagraph, the Secretary (in accordance with such methods as he shall prescribe by rule) shall assume a production mix for such manufacturer which would have

achieved the average fuel economy standard for such model year had standards described in subparagraph (D) applicable to model year 1975 remained the only standards in effect.

"(4) The Secretary may, for the purposes of conducting a proceeding under this subsection, consolidate one or more applications filed under this subsection.

"(e) For purposes of this section, in determining maximum feasible average fuel economy, the Secretary shall consider—

"(1) technological feasibility;

"(2) economic practicability;

"(3) the effect of other Federal motor vehicle standards on fuel economy, and

"(4) the need of the Nation to conserve energy.

"(f)(1) The Secretary may, by rule, from time to time, amend any average fuel economy standard prescribed under subsection (a)(3), (b), or (c), so long as such standard, as amended, meets the requirements of subsection (a)(3), (b), or (c), as the case may be.

"(2) Any amendment prescribed under this section which has the effect of making any average fuel economy standard more stringent shall be—

"(A) promulgated, and

"(B) if required by paragraph (4) of subsection (a), submitted to the Congress.

at least 18 months prior to the beginning of the model year to which such amendment will apply.

"(3) Proceedings under subsection (a)(4) or (d) shall be conducted in accordance with section 553 of title 5, United States Code, except that interested persons shall be entitled to make oral as well as written presentations. A transcript shall be taken of any oral presentations.

"DETERMINATION OF AVERAGE FUEL ECONOMY

'SEC. 503. (a)(1) Average fuel economy for purposes of section 502(a) and (c) shall be calculated by the EPA Administrator by dividing—

"(A) the total number of passenger automobiles manufactured in a given model year by a manufacturer, by

"(B) a sum of terms, each term of which is a fraction created by dividing—

"(i) the number of passenger automobiles of a given model type manufactured by such manufacturer in such model year, by

"(ii) the fuel economy measured for such model type.

"(2) Average fuel economy for purposes of section 502(b) shall be calculated in accordance with rules of the EPA Administrator.

"(b)(1) In calculating average fuel economy under subsection (a)(1), the EPA Administrator shall separate the total number of passenger automobiles manufactured by a manufacturer into the following two categories:

"(A) Passenger automobiles which are domestically manufactured by such manufacturer (plus, in the case of model year 1978 and model year 1979, passenger automobiles which are within the includable base import volume of such manufacturer).

"(B) Passenger automobiles which are not domestically manufactured by such manufacturer (and which, in the case of model year 1978 and model year 1979, are not within the includable base import volume of such manufacturer).

The EPA Administrator shall calculate the average fuel economy of each such separate category, and each such category shall be treated as if manufactured by a separate manufacturer for purposes of this part.

"(2) For purposes of this subsection:

"(A) The term "includable base import volume", with respect to any manufacturer in model year 1978 or 1979, as the case may be, is a number of passenger automobiles which is the lesser of—

"(i) the manufacturer's base import volume, or

"(ii) the number of passenger automobiles calculated by multiplying—

"(I) the quotient obtained by dividing such manufacturer's base import volume by such manufacturer's base production volume, times

"(II) the total number of passenger automobiles manufactured by such manufacturer during such model year.

"(B) The term 'base import volume' means one-half the sum of—

"(i) the total number of passenger automobiles which were not domestically manufactured by such manufacturer during model year 1974 and which were imported by such manufacturer during such model year, plus

"(ii) 133 percent of the total number of passenger automobiles which were not domestically manufactured by such manufacturer during the first 9 months of model year 1975 and which were imported by such manufacturer during such 9-month period.

"(C) The term 'base production volume' means one-half the sum of—

"(i) the total number of passenger automobiles manufactured by such manufacturer during model year 1974, plus

"(ii) 133 percent of the total number of passenger automobiles manufactured by such manufacturer during the first 9 months of model year 1975.

"(D) For purposes of subparagraphs (B) and (C) of this paragraph any passenger automobile imported during model year 1976, but prior to July 1, 1975, shall be deemed to have been manufactured (and imported) during the first 9 months of model year 1975.

"(E) An automobile shall be considered domestically manufactured in any model year if at least 75 percent of the cost to the manufacturer of such automobile is attributable to value added in the United States or Canada, unless the assembly of such automobile is completed in Canada and such automobile is not imported into the United States prior to the expiration of 30 days following the end of such model year. The EPA Administrator may prescribe rules for purposes of carrying out this subparagraph.

"(F) The fuel economy of each passenger automobile which is imported by a manufacturer in model year 1978 or 1979, as the case may be, and which is not domestically manufactured by such manufacturer, shall be deemed to be equal to the average fuel economy of all such passenger automobiles.

"(c) Any reference in this part to automobiles manufactured by a manufacturer shall be deemed—

"(1) to include all automobiles manufactured by persons who control, are controlled by, or are under common control with, such manufactuer; and

"(2) to exclude all automobiles manufactued (within the meaning of paragraph (1)) during a model year by such manufacturer which are exported prior to the expiration of 30 days following the end of such model year.

"(d)(1) Fuel economy for any model type shall be measured, and average fuel economy of a manufacturer shall be calculated, in accordance with testing and calculation procedures established by the EPA Administrator, by rule. Procedures so established with respect to passenger automobiles (other than for purposes of section 506) shall be the procedures utilized by the EPA Administrator for model year 1975 (weighed 55 percent urban cycle, and 45 percent highway cycle), or procedures which yield comparable results. Procedures under this subsection, to the extent practicable, shall require that fuel economy tests be conducted in conjunction with emission tests conducted under section 206 of the Clean Air Act. The EPA Administrator shall report any measurements of fuel economy and any calculations of average fuel economy to the Secretary.

"(2) The EPA Administrator shall, by rule, determine that quantity of any other fuel which is the equivalent of one gallon of gasoline.

"(3) Testing and calculation procedures applicable to a model year, and any amendment to such procedures (other than a technical or clerical amendment), shall be promulgated not less than 12 months prior to the model year to which such procedures apply.

"(e) For purposes of this part (other than section 506), any measurement of fuel economy of a model type, and any calculation of average fuel economy of a manufacturer, shall be rounded off to the nearest one-tenth mile per gallon (in accordance with the rules of the EPA Administrator).

"(f) The EPA Administrator shall consult and coordinate with the Secretary in carrying out his duties under this section.

"JUDICIAL REVIEW

"SEC. 504. (a) Any person who may be adversely affected by any rule prescribed under section 501, 502, 503, or 506 may, at any time prior to 60 days after such rule is prescribed (or in the case of an amendment submitted to each House of the Congress under section 502(a)(4), at any time prior to 60 days after the expiration of the 60-day period specified in section 502(a)(5)), file a petition in the United States Court of Appeals for the District of Columbia, or for any circuit wherein such person resides or has his principal place of business, for judicial review of such rule. A copy of the petition shall be forthwith transmitted by the clerk of such court to the officer who prescribed the rule. Such officer shall thereupon cause to be filed in such court the written submissions and other materials in the proceeding upon which such rule was based. Upon the filing of such petition, the court shall have jurisdiction to review the rule in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief as provided in such chapter. Findings of the Secretary under section 500(d) shall be set aside by the court on review unless such findings are supported by substantial evidence.

"(b) If the petitioner applies to the court in a proceeding under subsection (a) for leave to make additional submissions, and shows to the satisfaction of the court that such additional submissions are material and that there were reasonable grounds for the failure to make such submissions in the administrative proceeding, the court may order the Secretary or the EPA Administrator, as the case may be, to provide additional opportunity to make such submissions. The Secretary or the EPA Administrator, as the case may be, may modify or set aside the rule involved or prescribe a new rule by reason of the additional submissions, and shall file any such modified or new rule in the court, together with such additional submissions. The court shall thereafter review such new or modified rule.

"(c) The judgment of the court affirming or setting aside, in whole or in part, any such rule shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(d) The remedies provided for in this section shall be in addition to, and not in lieu of, any other remedies provided by law.

"INFORMATION AND REPORTS

"SEC. 505. (a)(1) Each manufacturer shall submit a report to the Secretary during the 30-day period preceding the beginning of each model year after model year 1977, and during the 30-day period beginning on the 180th day of each such model year. Each such report shall contain (A) a statement as to whether such manufacturer will comply with average fuel economy standards under section 502 applicable to the model year

for which such report is made; (B) a plan which describes the steps the manufacturer has taken or intends to take in order to comply with such standards; and (C) such information as the Secretary may require.

"(2) Whenever a manufacturer determines that a plan submitted under paragraph (1) which he stated was sufficient to insure compliance with applicable average fuel economy standards is not sufficient to insure such compliance, he shall submit a report to the Secretary containing a revised plan which specifies any additional measures which such manufacturer intends to take in order to comply with such standards, and a statement as to whether such revised plan is sufficient to insure such compliance.

"(3) The Secretary shall prescribe rules setting forth the form and content of the reports required under paragraphs (1) and (2).

"(b)(1) For the purpose of carrying out the provisions of this part, the Secretary or the EPA Administrator, or their duly designated agents, may hold such hearings, take such testimony, sit and act at such times and places, administer such oaths, and require, by subpena, the attendance and testimony of such witnesses and the production of such books, papers, correspondence, memorandums, contracts, agreements, or other records as the Secretary, the EPA Administrator, or such agents deem advisable. The Secretary or the EPA Administrator may require, by general or special orders that any person—

"(A) file, in such form as the Secretary or EPA Administrator may prescribe, reports or answers in writing to specific questions relating to any function of the Secretary or the EPA Administrator under this part, and

"(B) provide the Secretary, the EPA Administrator, or their duly designated agents, access to (and for the purpose of examination, the right to copy) any documentary evidence of such person which is relevant to any function of the Secretary or the EPA Administrator under this part.

Such reports and answers shall be made under oath or otherwise, and shall be filed with the Secretary or the EPA Administrator within such reasonable period as either may prescribe.

"(2) The district courts of the United States for a judicial district in the jurisdiction of which an inquiry is carried on may, in the case of contumacy or refusal to obey a duly authorized subpena or order of the Secretary, the EPA Administrator, or a duly designated agent of either, issued under paragraph (1), issue an order requiring compliance with such subpena or order. Any failure to obey such an order of the court may be treated by such court as a contempt thereof.

"(3) Witnesses summoned pursuant to this subsection shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

"(c)(1) Every manufacturer shall establish and maintain such records, make such reports, conduct such tests, and provide such items and information as the Secretary or the EPA Administrator may, by rule, reasonably require to enable the Secretary or the EPA Administrator to carry out their duties under this part and under any rules prescribed pursuant to this part. Such manufacturer shall, upon request of a duly designated agent of the Secretary or the EPA Administrator who presents appropriate credentials, permit such agents, at reasonable times and in a reasonable manner, to enter the premises of such manufacturer to inspect automobiles and appropriate books, papers, records, and documents. Such manufacturer shall make available all of such items and information in accordance with such reasonable rules as the Secretary or the EPA Administrator may prescribe.

"(2) The district courts of the United States may, if a manufacturer refuses to accede to any rule or reasonable request made under paragraph (1), issue an order requiring compliance with such requirement or request. Any failure to obey such an order of the court may be treated by such court as a contempt thereof.

"(d)(1) The Secretary and the EPA Administrator shall each disclose any information obtained under this part (other than section 503(d)) to the public in accordance with section 552 of title 5, United States Code, except that information may be withheld from disclosure under subsection (b)(4) of such section only if the Secretary or the EPA Administrator, as the case may be, determines that such information, if disclosed, would result in significant competitive damage. Any matter described in section 552(b)(4) relevant to any administrative or judicial proceeding under this part may be disclosed in such proceeding.

"(2) Measurements and calculations under section 503(d) shall be made available to the public in accordance with section 552 of title 5, United States Code, without regard to subsection (b) of such section.

"LABELING

"SEC. 506. (a)(1) Except as otherwise provided in paragraph (2), each manufacturer shall cause to be affixed, and each dealer shall cause to be maintained, on each automobile manufactured in any model year after model year 1976, in a prominent place, a label—

"(A) indicating—

"(i) the fuel economy of such automobile,

"(ii) the estimated annual fuel cost associated with the operation of such automobile, and

"(iii) the range of fuel economy of comparable automobiles (whether or not manufactured by such manufacturer),

as determined in accordance with rules of the EPA Administrator,

"(B) containing a statement that written information (as described in subsection (b)(1) with respect to the fuel economy of other automobiles manufactured in such model year (whether or not manufactured by such manufacturer) is available from the dealer in order to facilitate comparison among the various model types, and

"(C) containing any other information authorized or required by the EPA Administrator which relates to information described in subparagraph (A) or (B).

"(2) With respect to automobiles—

"(A) for which procedures established in the EPA and FEA Voluntary Fuel Labeling Program for Automobiles exist on the date of the enactment of this title, and

"(B) which are manufactured in model year 1976 and at least 90 days after such date of enactment, each manufacturer, shall cause to be affixed, and each dealer shall cause to be maintained, in a prominent place, a label indicating the fuel economy of such automobile, in accordance with such procedures.

"(3) The form and content of the labels required under paragraphs (1) and (2), and the manner in which such labels shall be affixed, shall be prescribed by the EPA Administrator by rule. The EPA Administrator may permit a manufacturer to comply with this paragraph by permitting such manufacturer to disclose the information required under this subsection on the label required by section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232).

"(b)(1) The EPA Administrator shall compile and compare a simple and readily understandable booklet containing data on fuel economy of automobiles manufactured in each model year. Such booklet shall also contain information with respect to estimated annual fuel costs, and may contain information with respect to geographical or other differences in estimated annual fuel costs. The Administrator of the Federal Energy Administrator shall publish and distribute such booklets.

"(2) The EPA Administrator, not later than July 31, 1976, shall prescribe rules requiring dealers to make available to prospective purchasers information compiled by the EPA Administrator under paragraph (1).

"(c)(1) A violation of subsection (a) shall be treated as a violation of section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232). For purposes of the Federal Trade Commission Act (other than sections 5(m) and (18), a violation of subsection (a) shall be treated as an unfair or deceptive act or practice in or affecting commerce.

"(2) As used in this section, the term 'dealer' has the same meaning as such term has in section 2(e) of the Automobile Information Disclosure Act (15 U.S.C. 1231(e)) except that in applying such term to this section, the term 'automobile' has the same meaning as such term has in section 501(1) of this part.

"(d) Any disclosure with respect to fuel economy or estimated annual fuel cost which is required to be made under the provisions of this section shall not create an express or implied warranty under State or Federal law that such fuel economy will be achieved, or that such cost will not be exceeded, under conditions of actual use.

"(e) In carrying out his duties under this section, the EPA Administrator shall consult with the Federal Trade Commission, the Secretary, and the Federal Energy Administrator.

"UNLAWFUL CONDUCT

"Sec. 507. The following conduct is unlawful:

"(1) the failure of any manufacturer to comply with any average fuel economy standard applicable to such manufacturer under section 502 (other than 502(b)),

"(2) the failure of any manufacturer to comply with any average fuel economy standard applicable to such manufacturer under section 502(b), or

"(3) the failure of any person (A) to comply with any provision of this part applicable to such person (other than section 502, 506 (a), 510, or 511), or (B) to comply with any standard, rule, or order applicable to such person which is issued pursuant to such a provision.

"CIVIL PENALTY

"SEC. 508. (a)(1) If average fuel economy calculations reported under section 503(d) indicate that any manufacturer has violated section 507 (1) or (2), then (unless further measurements of fuel economy, further calculations of average fuel economy, or other information indicates there is no violation of section 507 (1) or (2)) the Secretary shall commence a proceeding under paragraph (2) of this subsection. The results of such further measurements, further calculations, and any such other information, shall be published in the Federal Register.

"(2) If, on the record after opportunity for agency hearing, the Secretary determines that such manufacturer has violated section 507 (1) or (2), or that any person has violated section 507(3), the Secretary shall assess the penalties provided for under subsection (b). Any interested person may participate in any proceeding under this paragraph.

"(3)(A)(i) Whenever the average fuel economy of the passenger automobiles manufactured by a manufacturer in a particular model year exceeds an applicable average fuel economy standard established under section 502 (a) or (c) (determined without regard to any adjustment under section 502 (d)), such manufacturer shall be entitled to a credit, calculated under clause (ii), which shall be—

"(I) deducted from the amount of any civil penalty which has been or may be assessed against such manufacturer for a violation of section 507(1) occurring in the model

year immediately prior to the model year in which such manufacturer exceeds such applicable average fuel economy standard, and

"(II) to the extent that such credit is not deducted pursuant to subclause (I), deducted from the amount of any civil penalty assessed against such manufacturer for a violation of section 507 (1) occurring in the model year immediately following the model year in which such manufacturer exceeds such applicable average fuel economy standard.

"(ii) The amount of credit to which a manufacturer is entitled under clause (i) shall be equal to—

"(I) $5 for each tenth of a mile per gallon by which the average fuel economy of the passenger automobiles manufactured by such manufacturer in the model year in which the credit is earned pursuant to clause (i) exceeds the applicable average fuel economy standard established under section 502 (a) or (c), multiplied by

"(II) the total number of passenger automobiles manufactured by such manufacturer during such model year.

"(B) (i) Whenever the average fuel economy of a class of automobiles which are not passenger automobiles and which are manufactured by a manufacturer in a particular model year exceeds an average fuel economy standard applicable to automobiles of such class under section 502(b), such manufacturer shall be entitled to a credit, calculated under clause (ii), which shall be—

"(I) deducted from the amount of any civil penalty which has been or may be assessed against such manufacturer for a violation of section 507(2) occuring in the model year immediately prior to the model year in which such manufacturer exceeds such applicable average fuel economy standard, and

"(II) to the extent that such credit is not deducted pursuant to subclause (I), deducted from the amount of any such civil penalty assessed against such manufacturer for a violation of section 507 (2) occurring in the model year immediately following the model year in which such manufacturer exceeds such applicable average fuel economy standard.

"(ii) The amount of credit to which a manufacturer is entitled under clause (i) shall be equal to—

"(I) $5 for each tenth of a mile per gallon by which the average fuel economy of the automobiles of such class manufactured by such manufacturer in the model year in which the credit is earned pursuant to clause (i) exceeds the applicable average fuel economy standard established under section 502(b), multiplied by

"(II) the total number of automobiles of such class manufactured by such manufacturer during such model year.

"(C) Whenever a civil penalty has been assessed and collected under this section from a manufacturer who is entitled to a credit under this paragraph with respect to such civil penalty, the Secretary of the Treasury shall refund to such manufacturer the amount of credit to which such manufacturer is so entitled, except that the amount of such refund shall not exceed the amount of the civil penalty so collected.

"(D) The Secretary may prescribe rules for purposes of carrying out the provisions of this paragraph.

"(b) (1) (A) Any manufacturer whom the Secretary determines under subsection (a) to have violated a provision of section 507 (1), shall be liable to the United States for a civil penalty equal to (i) $5 for each tenth of a mile per gallon by which the average fuel economy of the passenger automobiles manufactured by such manufacturer during such model year is exceeded by the applicable average fuel economy standard established under section 502(a) or (c), multiplied by (ii) the total number of passenger automobiles manufactured by such manufacturer during such model year.

'(B) Any manufacturer whom the Secretary determines under subsection (a) to have violated section 507(2) shall be liable to the United States for a civil penalty equal to (i) $5 for each tenth of a mile per gallon by which the applicable average fuel economy standards exceeds the average fuel economy of automobiles to which such standard applies, and which are manufactured by such manufacturer during the model year in which the violation occurs multiplied by (ii) the total number of automobiles to which such standard applies and which are manufactured by such manufacturer during such model year.

"(2) Any person whom the Secretary determines under subsection (a) to have violated a provision of section 507(3) shall be liable to the United States for a civil penalty of not more than $10,000 for each violation. Each day of a continuing violation shall constitute a separate violation for purpose of this paragraph.

"(3) The amount of such civil penalty shall be assessed by the Secretary by written notice. The Secretary shall have the discretion to compromise, modify, or remit, with or without conditions, any civil penalty assessed under this subsection against any person, except that any civil penalty assessed for a violation of section 507(1) or (2) may be so compromised, modified, or remitted only to the extent—

"(A) necessary to prevent the insolvency or bankruptcy of such manufacturer,

"(B) such manufacturer shows that the violation of section 507 (1) or (2) resulted from an act of God, a strike, or a fire, or

"(C) the Federal Trade Commission has certified that modification of such penalty is necessary to prevent a substantial lessening of competition, as determined under paragraph (4).

The Attorney General shall collect any civil penalty for which a manufacturer is liable under this subsection in a civil action under subsection (c) (2) (unless the manufacturer pays such penalty to the Secretary).

"(4) Not later than 30 days after a determination by the Secretary under subsection (a) (2) that a manufacturer has violated section 507 (1) or (2), such manufacturer may apply to the Federal Trade Commission for a certification under this paragraph. If the manufacturer shows and the Federal Trade Commission determines that modification of the civil penalty for which such manufacturer is otherwise liable is necessary to prevent a substantial lessening of competition in that segment of the automobile industry subject to the standard with respect to which such penalty was assessed, the Commission shall so certify. The certification shall specify the maximum amount that such penalty may be reduced. To the maximum extent practicable, the Commission shall render a decision with respect to an application under this paragraph not later than 90 days after the application is filed with the Commission. A proceeding under this paragraph shall not have the effect of delaying the manufacturer's liability under this section for a civil penalty for more than 90 days after such application is filed, but any payment made before a decision of the Commission under this paragraph becomes final shall be paid to the court in which the penalty is collected, and shall (except as otherwise provided in paragraph (5)), be held by such court, until 90 days after such decision becomes final (at which time it shall be paid into the general fund of the Treasury).

"(5) Whenever a civil penalty has been assessed and collected from a manufacturer under this section, and is being held by a court in accordance with paragraph (4), and the Secretary subsequently determines to modify such civil penalty pursuant to paragraph (3) (C) the Secretary shall direct the court to remit the appropriate amount of such penalty to such manufacturer.

"(6) A claim of the United States for a civil penalty assessed against a manufacturer under subsection (b) (1) shall, in the case of the bankruptcy or insolvency of such manufacturer, be subordinate to any claim of a creditor of such manufacturer which arises from an extension of credit before the date on which the judgment in any collection action under this section becomes final (without regard to paragraph (4)).

"(c) (1) Any interested person may obtain review of a determination (A) of the Secretary pursuant to which a civil penalty has been assessed under subsection (b), or (B) of the Federal Trade Commission under subsection (b) (4), in the United States Court of Appeals for the District of Columbia, or for any circuit wherein such person resides or has his principal place of business. Such review may be obtained by filing a notice of appeal in such court within 30 days after the date of such determination, and by simultaneously sending a copy of such notice by certified mail to the Secretary or the Federal Trade Commission, as the case may be. The Secretary or the Commission, as the case may be, shall promptly file in such court a certified copy of the record upon which such determination was made. Any such determination shall be reviewed in accordance with chapter 7 of title 5, United States Code.

"(2) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court of appeals has entered final judgment in favor of the Secretary, the Attorney General shall recover the amount for which the manufacturer is liable in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

"EFFECT ON STATE LAW

"SEC. 509. (a) Whenever an average fuel economy standard established under this part is in effect, no State or political subdivision of a State shall have authority to adopt or enforce any law or regulation relating to fuel economy standards or average fuel economy standards applicable to automobiles covered by such Federal standard.

"(b) Whenever any requirement under section 506 is in effect with respect to any automobile, no State or political subdivision of a State shall have authority to adopt or enforce any law or regulation with respect to the disclosure of fuel economy of such automobile, or of fuel cost associated with the operation of such automobile, if such law or regulation is not identical with such requirement.

"(c) Nothing in this section shall be construed to prevent any State or political subdivision thereof from establishing requirements with respect to fuel economy of automobiles procured for its own use.

"USE OF FUEL EFFICIENT PASSENGER AUTOMOBILES BY THE FEDERAL GOVERNMENT

"SEC. 510. (a) The President shall within 120 days after the date of enactment of this title, promulgate rules which shall require that all passenger automobiles acquired by all executive agencies in each fiscal year which begins after such date of enactment achieve a fleet average fuel economy for such year not less than—

"(1) 18 miles per gallon, or

"(2) the average fuel economy standard applicable under section 502(a) for the model year which includes January 1 of such fiscal year,

whichever is greater.

"(b) As used in this section:

"(1) The term 'fleet average fuel economy' means (A) the total number of passenger automobiles acquired in a fiscal year to which

this section applies by all executive agencies (excluding passenger automobiles designed to perform combat related missions for the Armed Forces or designed to be used in law enforcement work or emergency rescue work), divided by (B) a sum of terms, each term of which is a fraction created by dividing—

"(i) the number of passenger automobiles so acquired of a given model type, by

"(ii) the fuel economy of such model type.

"(2) The term 'executive agency' has the same meaning as such term has for purposes of section 105 of title 5, United States Code.

"(3) The term 'acquired' means leased for a period of 60 continuous days or more, or purchased.

"RETROFIT DEVICES

"SEC. 511. (a) The Federal Trade Commission shall establish a program for systematically examining fuel economy representations made with respect to retrofit devices. Whenever the Commission has reason to believe that any such representation may be inaccurate, it shall request the EPA Administrator to evaluate, in accordance with subsection (b), the retrofit device with respect to which such representation was made.

"(b) (1) Upon application of any manufacturer of a retrofit device (or prototype thereof), upon the request of the Federal Trade Commission pursuant to subsection (a), or upon his own motion, the EPA Administrator shall evaluate, in accordance with rules prescribed under subsection (d), any retrofit device to determine whether the retrofit device increases fuel economy and to determine whether the representations (if any) made with respect to such retrofit device are accurate.

"(2) I under paragraph (1) the EPA Administrator tests, or causes to be tested, any retrofit device upon the application of a manufacturer of such device, such manufacturer shall supply, at his own expense, one or more samples of such device to the Administrator and shall be liable for the costs of testing which are incurred by the Administrator. The procedures for testing retrofit devices so supplied may include a requirement for preliminary testing by a qualified independent testing laboratory, at the expense of the manufacturer of such device.

"(c) The EPA Administrator shall publish in the Federal Register a summary of the results of all tests conducted under this section, together with the EPA Administrator's conclusions as to—

"(1) the effect of any retrofit device on fuel economy;

"(2) the effect of any such device on emissions of air pollutants; and

"(3) any other information which the Administrator determines to be relevant in evaluating such device.

Such summary and conclusions shall also be submitted to the Secretary and the Federal Trade Commission.

"(d) Within 180 days after the date of enactment of this title, the EPA Administrator shall, by rule, establish—

"(1) testing and other procedures for evaluating the extent to which retrofit devices affect fuel economy and emissions of air pollutants, and

"(2) criteria for evaluating the accuracy of fuel economy representations made with respect to retrofit devices.

"(e) For purposes of this section the term 'retrofit device' means any component, equipment, or other device—

"(1) which is designed to be installed in or on an automobile (as an addition to, as a replacement for, or through alteration or modification of, any original component, equipment, or other device); and

"(2) which any manufacturer, dealer, or distributor of such device represents will provide higher fuel economy than would have resulted with the automobile as originally equipped,

as determined under rules of the Administrator. Such term also includes fuel additive for use in an automobile.

"REPORTS TO CONGRESS

"SEC. 512. (a) Within 180 days after the date of enactment of this title, the Secretary shall prepare and submit to the Congress and the President a comprehensive report setting forth findings and containing conclusions and recommendations with respect to (1) a requirement that each new automobile be equipped with a fuel flow instrument reading directly in miles per gallon, and (2) the most feasible means of equipping used automobiles with such instruments. Such report shall include an examination of the effectiveness of such instruments in promoting voluntary reductions in fuel consumption, the cost of such instruments, means of encouraging automobile purchasers to voluntarily purchase automobiles equipped with such instruments, and any other factor bearing on the cost and effectiveness of such instruments and their use.

"(b) (1) Within 180 days after the date of enactment of this title, the Secretary shall prepare and submit to the Congress and the President a comprehensive report setting forth findings and containing conclusions and recommendations with respect to whether or not electric vehicles and other vehicles not consuming fuel (as defined in the first sentence of section 501(5)) should be covered by this part. Such report shall include an examination of the extent to which any such vehicle should be included under the provisions of this part, the manner in which energy requirements of such vehicles may be compared with energy requirements of fuel-consuming vehicles, the extent to which inclusion of such vehicles would stimulate their production and introduction into commerce, and any recommendations for legislative action.

"(2) As used in this subsection, the term 'electric vehicle' means a vehicle powered primarily by an electric motor drawing current from rechargeable batteries, fuel cells, or other portable sources of electrical current.

PART B—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS OTHER THAN AUTOMOBILES

DEFINITIONS

SEC. 321. (a) For purposes of this part:

(1) The term "consumer product" means any article (other than an automobile, as defined in section 501(1) of the Motor Vehicle Information and Cost Savings Act) of a type—

(A) which in operation consumes, or is designed to consume, energy; and

(B) which, to any significant extent, is distributed in commerce for personal use or consumption by individuals;

without regard to whether such article of such type is in fact distributed in commerce for personal use or consumption by an individual.

(2) The term "covered product" means a consumer product of a type specified in section 322.

(3) The term "energy" means electricity, or fossil fuels. The Administrator may, by rule, include other fuels within the meaning of the term "energy" if he determines that such inclusion is necessary or appropriate to carry out the purposes of this Act.

(4) The term "energy use" means the quantity of energy directly consumed by a consumer product at point of use, determined in accordance with test procedures under section 323.

(5) The term "energy efficiency" means the ratio of the useful output of services from a consumer product to the energy use of such product, determined in accordance with test procedures under section 323.

(6) The term "energy efficiency standard" means a performance standard—

(A) which prescribes a minimum level of energy efficiency for a covered product, determined in accordance with test procedures prescribed under section 323, and

(B) which includes any other requirements which the Administrator may prescribe under section 325(c).

(7) The term "estimated annual operating cost" means the aggregate retail cost of the energy which is likely to be consumed annually in representative use of a consumer product, determined in accordance with section 323.

(8) The term "measure of energy consumption" means energy use, energy efficiency, estimated annual operating cost, or other measure of energy consumption.

(9) The term "class of covered, products" means a group of covered products, the functions or intended uses of which are similar (as determined by the Administrator).

(10) The term "manufacture" means to manufacture, produce, assemble or import.

(11) The terms "import" and "importation" mean to import into the customs territory of the United States.

(12) The term "manufacturer" means any person who manufactures a consumer product.

(13) The term "retailer" means a person to whom a consumer product is delivered or sold, if such delivery or sale is for purposes of sale or distribution in commerce to purchasers who buy such product for purposes other than resale.

(14) The term "distributor" means a person (other than a manufacturer or retailer) to whom a consumer product is delivered or sold for purposes of distribution in commerce.

(15) (A) The term "private labeler" means an owner of a brand or trademark on the label of a consumer product which bears a private label.

(B) A consumer product bears a private label if (i) such product (or its container) is labeled with the brand or trademark of a person other than a manufacturer of such product, (ii) the person with whose brand or trademark such product (or container) is labeled has authorized or caused such product to be so labeled, and (iii) the brand or trademark of a manufacturer of such product does not appear on such label.

(16) The terms "to distribute in commerce" and "distribution in commerce" means to sell in commerce, to import, to introduce or dleiver for introduction into commerce, or to hold for sale or distribution after introduction into commerce.

(17) The term "commerce" means trade, traffic, commerce, or transportation—

(A) between a place in a State and any place outside thereof, or

(B) which affects trade, traffic, commerce, or transportation described in subparagraph (A).

(18) The term "Commission" means the Federal Trade Commission.

COVERAGE

SEC. 322. (a) A consumer product is a covered product if it is one of the following types (or is designed to perform a function which is the principal function of any of the following types):

(1) Refrigerators and refrigerator-freezers.
(2) Freezers.
(3) Dishwashers.
(4) Clothes dryers.
(5) Water heaters.
(6) Room air conditioners.
(7) Home heating equipment, not including furnaces.
(8) Television sets.
(9) Kitchen ranges and ovens.
(10) Clothes washers.
(11) Humidifiers and dehumidifiers.
(12) Central air conditioners.

(13) Furnaces.

(14) Any other types of consumer product which the Administrator classifies as a covered product under subsection (b).

(b)(1) The Administrator may classify a type of consumer product as a covered product if he determines that—

(A) classifying products of such type as covered products is necessary or appropriate to carry out the purpose of this Act, and

(B) average annual per-household energy use by products of such type is likely to exceed 100 kilowatt-hours (or its Btu equivalent) per year.

(2) For purposes of this subsection:

(A) The term "average annual per-household energy use" with respect to a type of product means the estimated aggregate annual energy use (in kilowatt-hours or the Btu equivalent) of consumer products of such type which are used by households in the United States, divided by the number of such households which use products of such type.

(B) The Btu equivalent of one kilowatt-hour is 3,412 British thermal units.

(C) The term "household" shall be defined under rules of the Administrator.

TEST PROCEDURES

SEC. 323. (a)(1) The Administrator shall, during the 30-day period which begins on the date of enactment of this Act, afford interested persons an opportunity to present written data, views, and arguments with respect to test procedures to be developed for covered products of each of the types specified in paragraphs (1) through (13) of section 322(a).

(2) The Administrator shall direct the National Bureau of Standards to develop test procedures for the determination of (A) estimated annual operating costs of covered products of the types specified in paragraphs (1) through (13) of section 322(a), and (B) at least one other useful measure of energy consumption of such products which the Administrator determines is likely to assist consumers in making purchasing decisions.

(3) Except as provided in paragraph (6), the Administrator shall publish proposed test procedures with respect to all covered products of each of the types specified in paragraphs (1) through (13) of section 322 (a), and shall afford interested persons an opportunity to present oral and written data, views, and arguments with respect to such proposed test procedures. Such comment period shall not be less than 45 days. Such proposed test procedures shall be published not later than June 30, 1976, except that (A) in the case of covered products of the types specified in paragraphs (7) and (9) of section 322(a), such proposed test procedures shall be published not later than September 30, 1976, and (B) in the case of covered products of the types specified in paragraphs (10) and (13) of section 322(a), such proposed test procedures shall be published not later than June 30, 1977.

(4)(A) Except as provided in paragraph (6), the Administrator shall prescribe test procedures for the determination of (i) estimated annual operating costs of all covered products of each of the types specified in paragraphs (1) through (13) of section 322 (a), and (ii) at least one other measure of energy consumption of such products which the Administrator determines is likely to assist consumers in making purchasing decisions.

(B) Such test procedures shall be prescribed not later than September 30, 1976, except that (i) in the case of covered products of the types specified in paragraphs (7) and (9) of section 322(a), such procedures shall be prescribed not later than December 31, 1976, and (ii) in the case of covered products of the types specified in paragraphs (10) through (13) of section 322(a), such test procedures shall be published not later than September 30, 1977.

(5) If the Administrator has classified a type of product as a covered product under section 322(b), the Administrator may, after affording interested persons an opportunity to comment, direct the National Bureau of Standards to develop, and may publish proposed test procedures for such type of covered product (or class thereof). The Administrator shall afford interested persons an opportunity to present oral and written data, views, and arguments with respect to such proposed test procedures. Such comment period shall not be less than 45 days. The Administrator may thereafter prescribe test procedures in accordance with subsection (b) of this section with respect to such type or class of product, if the Administrator or the Commission determines that—

(A) the application of subsection (c) to such type of covered product (or class thereof) will assist consumers in making purchasing decisions, or

(B) labeling in accordance with section 324 will assist purchasers in making purchasing decisions.

(6) The Administrator may delay the publication of proposed test procedures or the prescription of test procedures for a type of covered product (or class thereof) beyond the dates specified in paragraph (3), or (4), if he determines that he cannot, within the applicable time period, publish proposed test procedures or prescribe test procedures applicable to such type (or class thereof) which meet the requirements of subsection (b), and publishes such determination in the Federal Register. In any such case, he shall publish proposed test procedures or prescribe test procedures for covered products of such type (or class thereof) as soon as practicable, unless he determines that test procedures cannot be developed which meet the requirements of subsection (b) and publishes such determination in the Federal Register, together with the reasons therefor.

(b)(1) Any test procedures prescribed under this section shall be reasonably designed to produce test results which reflect energy efficiency, energy use, or estimated annual operating cost of a covered product during a representative average use cycle (as determined by the Administrator), and shall not be unduly burdensome to conduct.

(2) If the test procedure is a procedure for determining estimated annual operating costs, such procedure shall provide that such costs shall be calculated from measurements of energy use in a representative average-use cycle (as determined by the Administrator), and from representative average unit costs of the energy needed to operate such product during such cycle. The Administrator shall provide information to manufacturers respecting representative average unit costs of energy.

(c) Effective 90 days after a test procedure rule applicable to a covered product is prescribed under this section, no manufacturer, distributor, retailer, or private labeler may make any representation—

(1) in writing (including a representation on a label), or

(2) in any broadcast advertisement,

respecting the energy consumption of such product or cost of energy consumed by such product, unless such product has been tested in accordance with such test procedure and such representation fairly discloses the results of such testing.

LABELING

SEC. 324. (a)(1) The Commission shall prescribe labeling rules under this section applicable to all covered products of each of the types specified in paragraphs (1) through (9) of section 322(a), except to the extent that, with respect to any such type (or class thereof)—

(A) the Administrator determines under the second sentence of section 323(a)(6) that test procedures cannot be developed which meet the requirements of section 323 (b); or

(B) the Commission determines under the second sentence of subsection (b)(5) that labeling in accordance with this section is not technologically or economically feasible.

(2) The Commission shall prescribe labeling rules under this section applicable to all covered products of each of the types specified in paragraphs (10) through (13) of section 322(a), except to the extent that with respect to any such type (or class thereof)—

(B) the Commission determines under the second sentence of section 323(a)(6) that test procedures cannot be developed which meet the requirements of section 323(b); or

(B) the Commission determines under the second sentence of subsection (b)(5) that labeling in accordance with this section is not technologically or economically feasible or is not likely to assist consumers in making purchasing decisions.

(3) The Commission may prescribe a labeling rule under this section applicable to covered products of a type specified in paragraph (14) of section 322(a) (or a class thereof) if—

(A) the Commission or the Administrator has made a determination with respect to such type (or a class thereof) under section 323(a)(5)(B),

(B) the Administrator has prescribed test procedures under section 323(a)(5) for such type (or class thereof), and

(C) the Commission determines with respect to such type (or class thereof) that application of labeling rules under this section to such type (or class thereof) is economically and technologically feasible.

(4) Any determination under this subsection shall be published in the Federal Register.

(b)(1) Not later than 30 days after the date on which a proposed test procedure applicable to a covered product of any of the types specified in paragraphs (1) through (14) of section 322(a) (or class thereof) is published under section 323(a), the Commission shall publish a proposed labeling rule applicable to such type (or class thereof).

(2) The Commission shall afford interested persons an opportunity to present written or oral data, views, and comments with respect to the proposed labeling rules published under paragraph (1). The period for such presentations shall not be less than 45 days.

(3) Not earlier than 45 days nor later than 60 days after the date on which test procedures are prescribed under section 323 with respect to covered products of any type (or class thereof) specified in paragraphs (1) through (13) of section 322(a), the Commission shall prescribe labeling rules with respect to covered products of such type (or class thereof). Not earlier than 45 days after the date on which test procedures are prescribed under section 323 with respect to covered products of a type specified in paragraph (14) of section 322(a), the Commission may prescribe labeling rules with respect to covered products of such type (or class thereof).

(4) A labeling rule prescribed under paragraph (3) shall take effect not later than 3 months after the date of prescription of such rule, except that such rules may take effect not later than 6 months after such date of prescription if the Commission determines that such extension is necessary to allow persons subject to such rules adequate time to come into compliance with such rules.

(5) The Commission may delay the publication of a proposed labeling rule, or the

prescription of a labeling rule, beyond the dates specified in paragraph (1) or (3), if it determines that it cannot publish proposed labeling rules or prescribe labeling rules which meet the requirements of this section on or prior to the date specified in the applicable paragraph and publishes such determination in the Federal Register, together with the reasons therefor. In any such case, it shall publish proposed labeling rules or prescribe labeling rules for covered products of such type (or class thereof) as soon as practicable unless it determines (A) that labeling in accordance with this section is not economically or technically feasible, or (B) in the case of a type specified in paragraphs (10) through (13) of section 322(a), that labeling in accordance with this section is not likely to assist consumers in purchasing decisions. Any such determination shall be published in the Federal Register, together with the reasons therefor. This paragraph shall not apply to the prescription of a labeling rule with respect to covered products of a type specified in paragraph (14) of section 322(a).

(c)(1) Subject to paragraph (6), a rule prescribed under this section shall require that each covered product in the type or class of covered products to which the rule applies bear a label which discloses—

(A) the estimated annual operating cost of such product (determined in accordance with test procedures prescribed under section 323), except that if—

(i) the Administrator determines that disclosure of estimated annual operating cost is not technologically feasible, or

(ii) the Commission determines that such disclosure is not likely to assist consumers in making purchasing decisions or is not economically feasible.

the Commission shall require disclosure of a different useful measure of energy consumption (determined in accordance with test procedures prescribed under section 323); and

(B) information respecting the range of estimated annual operating costs for covered products to which the rule applies; except that if the Commission requires disclosure under subparagraph (A) of a measure of energy consumption different from estimated annual operating cost, then the label shall disclose the range of such measure of energy consumption of covered products to which such rule applies.

(2) A rule under this section shall include the following:

(A) A description of the type or class of covered products to which such rule applies.

(B) Subject to paragraph (6), information respecting the range of estimated annual operating costs of other useful measure of energy consumption (determined in such manner as the rule may prescribe) for such type or class of covered products.

(C) A description of the test procedures under section 323 used in determining the estimated annual operating costs or other measure of energy consumption of the type or class of covered products.

(D) A prototype label and directions for displaying such label.

(3) A rule under this section shall require that the label be displayed in a manner that the Commission determines is likely to assist consumers in making purchasing decisions and is appropriate to carry out this part. The Commission may permit a tag to be used in lieu of a label in any case in which the Commission finds that a tag will carry out the purchase for which the label was intended.

(4) A rule under this section applicable to a covered product may require disclosure, in any printed matter displayed or distributed at the point of sale of such product, of any information which may be required under this section to be disclosed on the label of such product. Requirements under this paragraph shall not apply to any broadcast advertisement or any advertisement in any newspaper, magazine, or other periodical.

(5) The Commission may require that a manufacturer of a covered product to which a rule under this section applies—

(A) include on the label,

(B) separately attach to the product, or

(C) ship with the product,

additional information relating to energy consumption, if the Commission determines that such additional information would assist consumers in making purchasing decisions or in using such product, and that such requirement would not be unduly burdensome to manufacturers.

(6) The Commission may delay the effective date of the requirement specified in paragraph (1)(B) of this subsection applicable to a type or class of covered product, insofar as it requires the disclosure on the label of information respecting range of a measure of energy consumption, for not more than 12 months after the date on which the rule under this section is first applicable to such type or class, if the Commission determines that such information will not be available within an adequate period of time before such date.

(d) A rule under this section (or an amendment thereto) shall not apply to any covered product the manufacture of which was completed prior to the effective date of such rule or amendment, as the case may be.

(e) The Administrator, in consultation with the Commission, shall study consumer products for which labeling rules under this section have not been proposed, in order to determine (1) the aggregate energy consumption of such products, and (2) whether the imposition of labeling requirements under this section would be feasible and useful to consumers in making purchasing decisions. The Administrator shall include the results of such study in the annual report under section 338.

(f) The Administrator and the Commission shall consult with each other on a continuing basis as may be necessary or appropriate to carry out their respective responsibilities under this part. Before the Commission makes any determination under subsection (a) (1) or (2), it shall obtain the views of the Administrator and shall take such views into account in making such determination.

(g) Until such time as labeling rules under this section take effect with respect to a type or class of covered product, this section shall not affect any authority of the Commission under the Federal Trade Commission Act to require labeling with respect to energy consumption of such type or class of covered product.

ENERGY EFFICIENCY STANDARDS

SEC. 325. (a)(1)(A) Not later than 180 days after the date of enactment of this Act, the Administrator shall, by rule, prescribe an energy efficiency improvement target for each type of covered product specified in paragraphs (1) through (10) of section 322(a).

(B) The targets prescribed under subparagraph (A) shall be designed so that, if met, the aggregate energy efficiency of covered products of all types specified in paragraphs (1) through (10) of section 322(a) which are manufactured in calendar year 1980 will exceed the aggregate energy efficiency achieved by products of all such types manufactured in calendar year 1972 by a percentage which is the maximum percentage improvement which the Administrator determines is economically and technologically feasible, but which in any case is not less than 20 percent.

(2) Not later than one year after the date of enactment of this Act, the Administrator shall, by rule, prescribe an energy efficiency improvement target for each type of covered products specified in paragrahs (11), (12), and (13) of section 322(a). Each such target shall be designed to achieve the maximum improvement in energy efficiency which the Administrator determines is economically and technologically feasible to attain for each such type manufactured in calendar year 1980.

(3) The Administrator may, from time to time, by rule, modify any energy efficiency improvement target prescribed under paragraph (1) or (2) so long as such target, as modified, meets the applicable requirements of paragraph (1) or (2).

(4)(A) The Administrator shall require each manufacturer of covered products of the types specified in paragraphs (1) through (13) of section 332(a) to submit such reports, with respect to improvement of energy efficiency of such products, as the Administrator determines may be necessary to establish targets under this subsection or to ascertain whether covered products of any such type will achieve the improvement prescribed by the energy efficiency improvement target for such type.

(B) If, on the basis of the reports received under subparagraph (A) or other information available to the Administrator, he determines that an energy efficiency improvement target applicable to any type of covered product specified in paragraphs (1) through (13) of section 332(a) is not likely to be achieved, the Administrator shall commence a proceeding under subsection (b) to prescribe an energy efficiency standard for such type.

(C) If, in a proceeding required to be commenced under subparagraph (B), the Administrator determines with respect to the type of product to which the proceeding relates (or class thereof)—

(i) improvement of energy efficiency of covered products of such type (or class thereof) is technologically feasible and economically justified, and

(ii) the application of a labeling rule under section 324 applicable to such type (or class thereof) is not likely to be sufficient to induce manufacturers to produce, and consumers and other persons to purchase, covered products of such type (or class thereof) which achieve the maximum energy efficiency which it is technologically feasible to attain, and which is economically justified.

the Administrator shall prescribe an energy efficiency standard for such type (or, if the determinations are made with respect to one or more classes of such type, for such class or classes).

(D) For purposes of subparagraph (B), improvement of energy efficiency is economically justified if it is economically feasible the benefits of reduced energy consumption, and the savings in operating costs throughout the estimated average life of the covered product, outweigh—

(i) any increase to purchasers in initial charges for, or maintenance expenses of, the covered product which is likely to result from the imposition of the standard,

(ii) any lessening of the utility or the performance of the covered product, and

(iii) any negative effects on competition.

(E) For purposes of subparagraph (D)(iii), the Administrator shall not determine that there are any negative effects on competition, unless the Attorney General, (on request of the Administrator, the Commission, or any person, or on his own motion) makes determination and submits it in writing to the Administrator, together with his analysis of the nature and extent of such negative effects. The determination of the Attorney General shall be available for public inspection.

(5) The Administrator may (without re-

gard to paragraphs (1) through (4)(B)) commence a proceeding to prescribe an energy efficiency standard applicable to any type or class of covered product (other than a consumer product classified as a covered product under section 322(b)). In such proceeding he may prescribe such a standard if he makes the determinations specified in clauses (i) and (ii) of paragraph (4)(C) of this subsection.

(b) Any energy efficiency standard shall be prescribed in accordance with the following procedure:

(1) The Administrator shall (A) publish an advance notice of proposed rulemaking which specifies (i) the type or class of covered products to which the rule will apply, and (ii) the energy efficiency level which the Administrator proposes to require by such energy efficiency standard, and (B) invite interested persons to submit, within 90 days after the date of publication of such advance notice—

(i) written or oral presentation of data, views, and argument as to the proposed level of energy efficiency, and

(ii) a proposed energy efficiency standard applicable to such type or class of covered product.

(2) A proposed rule which prescribes an energy efficiency standard for a type or class of covered products may not be prescribed earlier than 120 days after the date of publication of advance notice of proposed rulemaking for such type or class.

(3) A rule prescribing an energy efficiency standard for a class or type of covered product may not be published earlier than 60 days after the date of publication of the proposed rule under this section for such type or class. Such rule shall take effect not earlier than 180 days after the date of its publication in the Federal Register. Such rule (or any amendment thereto) shall not apply to any covered product the manufacture of which was completed prior to the effective date of the rule or amendment as the case may be.

(c) An energy efficiency standard prescribed in accordance with section 323, and may include any requirement which the Administrator determines is necessary to assure that each covered product to which such standard applies meets the required minimum level of energy efficiency specified in such standard.

(d) A rule with respect to any type or class of covered product prescribed under this section may not take effect unless a rule under section 324 with respect to such type or class of covered product has been in effect at least 18 months prior to the effective date of the rule under this section.

REQUIREMENTS OF MANUFACTURERS

SEC. 326. (a) Each manufacturer of a covered product to which a rule under section 324 applies shall provide a label which meets, and is displayed in accordance with, the requirements of such rule. If such manufacturer or any distributor, retailer, or private labeler of such product advertises such product in a catalog from which it may be purchased, such catalog shall contain all information required to be displayed on the label, except as otherwise provided by rule of the Commission. The preceding sentence shall not require that a catalog contain information respecting a covered product if the distribution of such catalog commenced before the effective date of the labeling rule under section 324 applicable to such product.

(b)(1) Each manufacturer of a covered product to which a rule under section 324 applies shall notify the Commission, not later than 60 days after the date such rule takes effect, of the models in current production (and starting serial numbers of those models) to which such rule applies.

(2) If requested by the Administrator or Commission, the manufacturer of a covered product to which a rule under section 324 applies shall provide, within 30 days of the date of the request, the data from which the information included on the label and required by the rule was derived. Data shall be kept on file by the manufacturer for a period specified in the rule.

(3) When requested by the Commission, the manufacturer of covered products to which a rule under section 324 applies shall supply at his expense a reasonable number of such covered products to any laboratory designated by the Commission for the purpose of ascertaining whether the information set out on the label, as required under section 324, is accurate. Any reasonable charge levied by the laboratory for such testing shall be borne by the United States.

(4) Each manufacturer of a covered product to which a rule under section 324 applies shall annually, at a time specified by the Commission, supply to the Commission relevant data respecting energy consumption developed in accordance with the test procedures applicable to such product under section 323.

(5) A rule under section 323, 324, or 325 may require the manufacturer or his agent to permit a representative designated by the Commission or the Administrator to observe any testing required by this part and inspect the results of such testing.

(c) Each manufacturer shall use labels reflecting the range data required to be disclosed under section 324(c)(1)(B) after the expiration of 60 days following the date of publication of any revised table of ranges unless the rule under section 324 provides for a later date. The Commission may not require labels be changed to reflect revised tables of ranges more often than annually.

EFFECT ON OTHER LAW

SEC. 327. (a) This part supersedes any State regulation insofar as such State regulation may now or hereafter provide for—

(1) the disclosure of information with respect to any measure of energy consumption of any covered product—

(A) if there is any rule under section 323 applicable to such covered product, and such State regulation requires testing in any manner other than that prescribed in such rule under section 323, or

(B) if there is a rule under section 324 applicable to such covered product and such State regulation requires disclosure of information other than information disclosed in accordance with such rule under section 324; or

(2) any energy efficiency standard or similar requirement with respect to energy efficiency or energy use of a covered product—

(A) if there is a standard under section 325 applicable to such product, and such State regulation is not identical to such standard, or

(B) if there is a rule under section 323 or 324 applicable to such product and such State regulation requires testing in accordance with test procedures which are not identical to the test procedures specified in such rule.

(b)(1) If a State regulation provides for an energy efficiency standard or similar requirement respecting energy use or energy efficiency of a covered product and if such State regulation is not superseded by subsection (a)(2), then any person subject to such State regulation may petition the Administrator for the prescription of a rule under this subsection which supersedes such State regulation in whole or in part. The Administrator shall, within 6 months after the date such a petition is filed, either deny such petition or prescribe a rule under this subsection superseding such State regulation. The Administrator shall issue such a rule with respect to a State regulation if and only if the petitioner demonstrates to the satisfaction of the Administrator that—

(A) there is no significant State or local interest sufficient to justify such State regulation; and

(B) such State regulation unduly burdens interstate commerce.

(2) Notwithstanding the provisions of subsection (a), any State regulation which provides for an energy efficiency standard or similar requirement respecting energy use or energy efficiency of a covered product shall not be superseded by subsection (a) if the State prescribing such standard demonstrates and the Administrator finds, by rule, that—

(A) there is a substantial State or local need which is sufficient to justify such State regulation;

(B) such State regulation does not unduly burden interstate commerce; and

(C) if there is a Federal energy efficiency standard applicable to such product, such State regulation contains a more stringent energy efficiency standard than the corresponding Federal standard.

(c) Notwithstanding the provisions of subsection (a), any State regulation which sets forth procurement standards for a State (or political subdivision thereof) shall not be superseded by the provisions of this part if such State standards are more stringent than the corresponding Federal standards.

(d) For purposes of this section, the term "State regulation" means a law or regulation of a State or political subdivision thereof.

(e) Any disclosure with respect to energy use, energy efficiency, or estimated annual operating cost, which is required to be made under the provisions of this part, shall not create an express or implied warranty under State or Federal law that such energy efficiency will be achieved, or that such energy use or estimated annual operating cost will not be exceeded, under conditions of actual use.

RULES

SEC. 328. The Commission and the Administrator may each issue such rules as each deems necessary to carry out the provisions of this part.

AUTHORITY TO OBTAIN INFORMATION

SEC. 329. (a) For purposes of carrying out this part, the Commission and the Administrator may each sign and issue subpenas for the attendance and testimony of witnesses and the production of relevant books, records, papers, and other documents, and each may administer oaths. Witnesses summoned under the provisions of this section shall be paid the same fees and mileage as are paid to witnesses in the courts of the United States. In case of contumacy by, or refusal to obey a subpena served, upon any person subject to this part, the Commissioner and the Administrator may each seek an order from the district court of the United States for any district in which such person is found or resides or transacts business requiring such person to appear and give testimony, or to appear and produce documents. Failure to obey any such order is punishable by such court as a contempt thereof.

(b) Any information submitted by any person to the Administrator or the Commission under this part shall not be considered energy information as defined by section 11(e)(1) of the Energy Supply and Environmental Coordination Act of 1974 for purposes of any verification examination authorized to be conducted by the Comptroller General under section 501 of this Act.

EXPORTS

SEC. 330. This part shall not apply to any covered product if (1) such covered product is manufactured, sold, or held for sale for export from the United States (or such product was imported for export), unless such product is in fact distributed in commerce for use in the United States, and (2) such covered product when distributed in commerce, or any container in which it is enclosed when so distributed, bears a stamp or

label stating that such covered product is intended for export.

IMPORTS

SEC. 331. Any covered product offered for importation in violation of section 332 shall be refused admission into the customs territory of the United States under rules issued by the Secretary of the Treasury, except that the Secretary of the Treasury may, by such rules, authorize the importation of such covered product upon such terms and conditions (including the furnishing of a bond) as may appear to him appropriate to ensure that such covered product will not violate section 332, or will be exported or abandoned to the United States. The Secretary of the Treasury shall prescribe rules under this section not later than 180 days after the date of enactment of this Act.

PROHIBITED ACTS

SEC. 332. (a) It shall be unlawful—

(1) for any manufacturer or private labeler to distribute in commerce any new covered product to which a rule under section 324 applies, unless such covered product is labeled in accordance with such rule;

(2) for any manufacturer, distributor, retailer, or private labeler to remove from any new covered product or render illegible any label required to be provided with such product under a rule under section 324;

(3) for any manufacturer to fail to permit access to, or copying of, records required to be supplied under this part, or fail to make reports or provide other information required to be supplied under this part;

(4) for any person to fail to comply with an applicable requirement of section 326(a), (b)(2), (b)(3), or (b)(5); or

(5) for any manufacturer or private labeler to distribute in commerce any new covered product which is not in conformity with an applicable energy efficiency standard prescribed under this part.

(b) For purposes of this section, the term "new covered product" means a covered product the title of which has not passed to a purchaser who buys such product for purposes other than (1) reselling such product, or (2) leasing such product for a period in excess of one year.

ENFORCEMENT

SEC. 333. (a) Except as provided in subsection (b), any person who knowingly violates any provision of section 332 shall be subject to a civil penalty of not more than $100 for each violation. Such penalties shall be assessed by the Commission, except that penalties for violations of section 322(a)(3) which relate to requirements prescribed by the Administrator, violations of section 332(a)(4) which relate to requests of the Administrator under section 326(b)(2), or violations of section 332(a)(5) shall be assessed by the Administrator. Civil penalties assessed under this part may be compromised by the agency or officer authorized to assess the penalty, taking into account the nature and degree of the violation and the impact of the penalty upon a particular respondent. Each violation of paragraph (1), (2), or (5) of section 332(a) shall constitute a separate violation with respect to each covered product, and each day of violation of section 332(a) (3) or (4) shall constitute a separate violation.

(b) As used in subsection (a), the term "knowingly" means (1) the having of actual knowledge, or (2) the presumed having of knowledge deemed to be possessed by a reasonable man who acts in the circumstances, including knowledge obtainable upon the exercise of due care.

(c) It shall be an unfair or deceptive act or practice in or affecting commerce (within the meaning of section 5(a)(1) of the Federal Trade Commission Act) for any person to violate section 323(d)(2).

INJUNCTIVE ENFORCEMENT

SEC. 334. The United States district courts shall have jurisdiction to restrain (1) any violation of section 332 and (2) any person from distributing in commerce any covered product which does not comply with an applicable rule under section 324 or 325. Any such action shall be brought by the Commission, except that any such action to restrain any violation of section 332(a)(3) which relates to requirements prescribed by the Administrator, any violation of section 332(a)(4) which relates to requests of the Administrator under section 326(b)(2), or any violation of section 332(a)(5) shall be brought by the Administrator. Any such action may be brought in any United States district court for a district wherein any act, omission, or transaction constituting the violation occurred, or in such court for the district wherein the defendant is found or transact business. In any action under this section, process may be served on a defendant in any other district in which the defendant resides or may be found.

CITIZEN SUITS

SEC. 335. (a) Except as otherwise provided in subsection (b), any person may commence a civil action against—

(1) any manufacturer or private labeler who is alleged to be in violation of any provision of this part or any rule under this part (excluding sections 325 and 332(a)(5), and rules thereunder) or

(2) any Federal agency which has a responsibility under this part where there is an alleged failure of such agency to perform any act or duty under this part which is not discretionary (excluding any act or duty under section 325 or 332(a)(5)).

The United States district courts shall have jurisdiction, without regard to the amounts in controversy or the citizenship of the parties, to enforce such provision or rule, as the case may be.

(b) No action may be commenced—

(1) under subsection (a)(1)—

(A) prior to 60 days after the date on which the plaintiff has given notice of the violation (i) to the Administrator, (ii) to the Commission, and (iii) to any alleged violator of such provision or rule, or

(B) if the Commission has commenced and is diligently prosecuting a civil action to require compliance with such provision or rule, but, in any such action, any person may intervene as a matter of right.

(2) under subsection (a)(2) prior to 60 days after the date on which the plaintiff has given notice of such action to the Administrator and Commission.

Notice under this subsection shall be given in such manner as the Commission shall prescribe by rule.

(c) In such action under this section, the Administrator or the Commission (or both), if not a party, may intervene as a matter of right.

(d) The court, in issuing any final order in any action brought pursuant to subsection (a) of this section, may award costs of litigation (including reasonable attorney and export witness fees) to any party, whenever the court determines such award is appropriate.

(e) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of this part or any rule thereunder, or to seek any other relief (including relief against the Administrator or the Commission).

(f) For purposes of this section, if a manufacturer or private labeler complied in good faith with a rule under this part, then he shall not be deemed to have violated any provisions of this part by reason of the alleged invalidity of such rule.

ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

SEC. 336. (a)(1) Rules under sections 323, 324, 325(a) (1), (2), or (3), 327(b), or 328 shall be prescribed in accordance with section 553 of title 5, United States Code, except that—

(A) interested persons shall be afforded an opportunity to present written and oral data, views, and arguments with respect to any proposed rule, and

(B) in the case of a rule under paragraph (1), (2), or (3) of section 325(a), the Administrator shall, by means of conferences or other informal procedures, afford any interested person an opportunity to question—

(i) other interested persons who have made oral presentations under subparagraph (A), and

(ii) employees of the United States who have made written or oral presentations,

with respect to disputed issues of material fact. Such opportunity shall be afforded to the extent the Administrator determines that questioning pursuant to such procedures is likely to result in a more timely and effective resolution of such issues.

A transcript shall be kept of any oral presentations made under this paragraph.

(2) Subsections (c) and (d) of section 18 of the Federal Trade Commission Act shall apply to rules under section 325 (other than subsections (a)(1), (2), and (3)) to the same extent that such subsections apply to rules under section 18(a)(1)(B) of such Act.

(b)(1) Any person who will be adversely affected by a rule prescribed under section 323 or 324 when it is effective may, at any time prior to the sixtieth day after the date such rule is prescribed, file a petition with the United States court of appeals for the circuit wherein such person resides or has his principal place of business, for a judicial review thereof. A copy of the petition shall be forthwith transmitted by the clerk of the court to the agency which prescribed the rule. Such agency thereupon shall file in the court the written submissions to, and transcript of, the proceedings on which the rule was based as provided in section 2112 of title 28, United States Code.

(2) Upon the filing of the petition referred to in paragraph (1), the court shall have jurisdiction to review the rule in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief as provided in such chapter. No rule under section 323 or 324 may be affirmed unless supported by substantial evidence.

(3) The judgment of the court affirming or setting aside, in whole or in part, any such rule shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(4) The remedies provided for in this subsection shall be in addition to, and not in substitution for, any other remedies provided by law.

(5) Section 18(e) of the Federal Trade Commission Act shall apply to rules under section 325 (other than subsections (a) (1), (2), and (3)) to the same extent that it applies to rules under section 18(a)(1)(B) of such Act.

CONSUMER EDUCATION

SEC. 337. The Administrator shall, in close cooperation and coordination with the Commission and appropriate industry trade associations and industry members, including retailers, and interested consumer and environmental organizations, carry out a program to educate consumers and other persons with respect to—

(1) the significance of estimated annual operating costs;

(2) the way in which comparative shopping, including comparisons of estimated an-

nual operating costs, can save energy for the Nation and money for consumers; and

(3) such other matters as the Administrator determines may encourage the conservation of energy in the use of consumer products.

Such steps to educate consumers may include publications, audiovisual presentations, demonstrations, and the sponsorship of national and regional conferences involving manufacturers, distributors, retailers, and consumers, and State, local, and Federal Government representatives. Nothing in this section may be construed to require the compilation of lists which compare the estimated annual operating costs of consumer products by model or manufacturer's name.

ANNUAL REPORT

SEC. 338. The Administrator shall report to the Congress and the President either (1) as part of his annual report, or (2) in a separate report submitted annually, on the progress of the program undertaken pursuant to this part and on the energy savings impact of this part.

AUTHORIZATION OF APPROPRIATIONS

SEC. 339. (a) There are authorized to be appropriated to the Administrators not more than the following amounts to carry out his responsibilities under this part—

(1) $1,700,000 for fiscal year 1976;
(2) $1,500,000 for fiscal year 1977; and
(3) $1,500,000 for fiscal year 1978.

(b) There are authorized to be appropriated to the Commission not more than the following amounts to carry out its responsibilities under this part—

(1) $650,000 for fiscal year 1976;
(2) $700,000 for fiscal year 1977; and
(3) $700,000 for fiscal year 1978.

(c) There are authorized to be appropriated to the Administrator to be allocated not more than the following amounts—

(1) $1,700,000 for fiscal year 1976;
(2) $700,000 for fiscal year 1977; and
(3) $700,000 for fiscal year 1978.

Such amounts shall, and any amounts authorized to be appropriated under subsection (a), may, be allocated by the Administrator to the National Bureau of Standards.

PART C—STATE ENERGY CONSERVATION PLANS

FINDINGS AND PURPOSE

SEC. 361. (a) The Congress finds that—

(1) the development and implementation by States of laws, policies, programs, and procedures to conserve and to improve efficiency in the use of energy will have an immediate and substantial effect in reducing the rate of growth of energy demand and in minimizing the adverse social, economic, political, and environmental impacts of increasing energy consumption;

(2) the development and implementation of energy conservation programs by States will most efficiently and effectively minimize any adverse economic or employment impacts of changing patterns of energy use and meet local economic, climatic, geographic, and other unique conditions and requirements of each State; and

(3) the Federal Government has a responsibility to foster and promote comprehensive energy conservation programs and practices by establishing guidelines for such programs and providing overall coordination, technical assistance, and financial support for specific State initiatives in energy conservation.

(b) It is the purpose of this part to promote the conservation of energy and reduce the rate of growth of energy demand by authorizing the Administrator to establish procedures and guidelines for the development and implementation of specific State energy conservation programs and to provide Federal financial and technical assistance to States in support of such programs.

STATE ENERGY CONSERVATION PLANS

SEC. 362. (a) The Administrator shall, by rule, within 60 days after the date of enactment of this Act, prescribe guidelines for the preparation of a State energy conservation feasibility report. The Administrator shall invite the Governor of each State to submit, within 3 months after the effective date of such guidelines, such a report. Such report shall include—

(1) an assessment of the feasibility of establishing a State energy conservation goal, which goal shall consist of a reduction, as a result of the implementation of the State energy conservation plan described in this section, of 5 percent or more in the total amount of energy consumed in such State in the year 1980 from the projected energy consumption for such State in the year 1980, and

(2) a proposal by such State for the development of a State energy conservation plan to achieve such goal.

(b) The Administrator shall, by rule, within 6 months after the date of enactment of this Act, prescribe guidelines with respect to measures required to be included in, and guidelines for the development, modification, and funding of, State energy conservation plans. The Administrator shall invite the Governor of each State to submit, within 5 months after the effective date of such guidelines, a report. Such report shall include—

(1) a proposed State energy conservation plan designed to result in scheduled progress toward, and achievement of, the State energy conservation goal of such State; and

(2) a detailed description of the requirements, including the estimated cost of implementation and the estimated energy savings, associated with each functional category of energy conservation included in the State energy conservation plan.

(c) Each proposed State energy conservation plan to be eligible for Federal assistance under this part shall include—

(1) mandatory lighting efficiency standards for public buildings (except public buildings owned or leased by the United States);

(2) programs to promote the availability and use of carpools, vanpools, and public transportation (except that no Federal funds provided under this part shall be used for subsidizing fares for public transportation);

(3) mandatory standards and policies relating to energy efficiency to govern the procurement practices of such State and its political subdivisions;

(4) mandatory thermal efficiency standards and insulation requirements for new and renovated buildings (except buildings owned or leased by the United States); and

(5) a traffic law or regulation which, to the maximum extent practicable consistent with safety, permits the operator of a motor vehicle to turn such vehicle right at a red stop light after stopping.

(d) Each proposed State energy conservation plan may include—

(1) restrictions governing the hours and conditions of operation of public buildings (except buildings owned or leased by the United States);

(2) restrictions on the use of decorative or nonessential lighting;

(3) transportation controls;

(4) programs of public education to promote energy conservation; and

(5) any other appropriate method or programs to conserve and to improve efficiency in the use of energy.

(e) The Governor of any State may submit to the Administrator a State energy conservation plan which is a standby energy conservation plan to significantly reduce energy demand by regulating the public and private consumption of energy during a severe energy supply interruption, which plan may be separately eligible for Federal assistance under this part without regard to subsection (c) and (d) of this section.

FEDERAL ASSISTANCE TO STATES

SEC. 363. (a) Upon request of the Governor of any State, the Administrator shall provide, subject to the availability of personnel and funds, information and technical assistance, including model State laws and proposed regulations relating to energy conservation, and other assistance in—

(1) the preparation of the reports described in section 362, and

(2) the development, implementation, or modification of an energy conservation plan of such State submitted under section 362 (b) or (e).

(b)(1) The Administrator may grant Federal financial assistance pursuant to this section for the purpose of assisting such State in the development of any such energy conservation plan or in the implementation or modification of a State energy conservation plan or part thereof which has been submitted to and approved by the Administrator pursuant to this part.

(2) In determining whether to approve a State energy conservation plan submitted under section 362(b) or (e), the Administrator—

(A) shall take into account the impact of local economic, climatic, geographic, and other unique conditions and requirements of such State on the opportunity to conserve and to improve efficiency in the use of energy in such State; and

(B) may extend the period of time during which a State energy conservation feasibility report or State energy conservation plan may be submitted if the Administrator determines that participation by the State submitting such a report or plan is likely to result in significant progress toward achieving the purposes of this Act.

(3) In determining the amount of Federal financial assistance to be provided to any State under this subsection, the Administrator shall consider—

(A) the contribution to energy conservation which can reasonably be expected,

(B) the number of people affected by such plan, and

(C) the consistency of such plan with the purposes of this Act, and such other factors as the Administrator deems appropriate.

(c) Each recipient of Federal financial assistance under subsection (b) shall keep such records as the Administrator shall require, including records which fully disclose the amount and disposition by each recipient of the proceeds of such assistance, the total cost of the project or program for which such assistance was given or used, the source and amount of funds for such projects or programs not supplied by the Administrator, and such other records as the Administrator determines necessary to facilitate an effective audit and performance evaluation. The Administrator and Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any pertinent books, documents, papers, and records of any recipient of Federal assistance under this part.

ENERGY CONSERVATION GOALS

"SEC. 364. Upon the basis of the reports submitted pursuant to this part and such other information as is available, the Administrator shall, at the earliest practicable date, set an energy conservation goal for each State for 1980 and may set interim goals. Such goal or goals shall consist of the maximum reduction in the consumption of energy during any year as a result of the implementation of the State energy conservation plan described in section 362(b) which is consistent with technological feasibility, financial resources, and economic objectives,

by comparison with the projected energy consumption for such State in such year. The Administrator shall specify the assumptions used in the determination of the projected energy consumption in each State, taking into account population trends, economic growth, and the effects of national energy conservation programs.

GENERAL PROVISIONS

SEC. 365. (a) The Administrator may prescribe such rules as may be necessary or appropriate to carry out his authority under this part.

(b) In carrying out the provisions of sections 362 and 364 and subsection (a) of section 363, the Administrator shall consult with appropriate departments and Federal agencies.

(c) The Administrator shall report annually to the President and the Congress, and shall furnish copies of such report to the Governor of each State, on the operation of the program under this part. Such report shall include an estimate of the energy conservation achieved, the degree of State participation and achievement, a description of innovative conservation programs undertaken by individual States, and the recommendations of the Administrator, if any, for additional legislation.

(d) There are authorized to be appropriated for carrying out the provisions of this part $50,000,000 for fiscal year 1976, $50,000,000 for fiscal year 1977, and $50,000,00 for fiscal year 1978.

DEFINITIONS

SEC. 366. As used in this part—

(1) The term "public building" means any building which is open to the public during normal business hours.

(2) The term "transportation controls" means any plan, procedure, method, or arrangement, or any system of incentives, disincentives, restrictions, and requirements, which is designed to reduce the amount of energy in transportation, except that the term does not include rationing of gasoline or diesel fuel.

PART D—INDUSTRIAL ENERGY CONSERVATION

DEFINITIONS

SEC. 371. As used in this part—

(1) The term "chief executive officer" means, within a corporation, the individual whom the Administrator determines, for purposes of this part, is in charge of operations.

(2) The term "corporation" means a person as defined in section 3(2)(B) and includes any person so defined which controls, is controlled by, or is under common control with such person. If a corporation is engaged in more than one major energy-consuming industry, such corporation shall be treated as a separate corporation with respect to each such industry.

(3) The term "energy efficiency" means the amount of industrial output or activity per unit of energy consumed therein, as determined by the Administrator.

(4) The term "major energy-consuming industry" means a two-digit classification, within the manufacturing division of economic activity set forth in the Standard Industrial Classification (SIC) Manual by a code number, which the Administrator determines is suited to the purposese of this part.

PROGRAM

SEC. 372. The Administrator shall establish and maintain, in consultation with the Secretary of Commerce and the Administrator of the Energy Research and Development Administration, a program—

(1) to promote increased energy efficiency by American industry, and

(2) to establish voluntary energy efficiency improvement targets for at least the 10 most energy-consumptive major energy-consuming industries.

IDENTIFICATION OF MAJOR ENERGY CONSUMERS

SEC. 373. Within 90 days after the date of enactment of this Act, the Administrator shall identify each major energy-consuming industry in the United States, and shall establish a priority ranking of such industries on the basis of their respective total annual energy consumption. Within each industry so identified, the Administrator shall identify each corporation which—

(1) consumes at least one trillion British thermal units of energy per year, and

(2) is among the corporations identified by the Administrator as the 50 most energy-consumptive corporations in such industry.

INDUSTRIAL ENERGY EFFICIENCY IMPROVEMENT TARGETS

SEC. 374. (a) Within one year after the date of enactment of this Act, the Administrator shall set an industrial energy efficiency improvement target for each of the 10 most energy-consumptive industries identified under section 373. Each such target—

(1) shall be based upon the best available information,

(2) shall be established at the level which represents the maximum feasible improvement in energy efficiency which such industry can achieve by January 1, 1980, and

(3) shall be published in the Federal Register, together with a statement of the basis and justification for each such target.

(b) In determining maximum feasible improvement under subsection (a) and under subsection (c), the Administrator shall consider—

(1) the objectives of the program established under section 372,

(2) the technological feasibility and economic practicability of utilizing alternative operating procedures and more energy efficient technologies,

(3) any special circumstances or characteristics of the industry for which the target is being set, and

(4) any actions planned or implemented by each such industry to reduce consumption by such industry of petroleum products and natural gas.

(c) The Administrator may, in order to carry out section 372(1), set an industrial energy efficiency improvement target for any major energy-consuming industry to which subsection (a) does not apply. Each such target—

(1) shall be based upon the best available information,

(2) shall be established at the level which represents the maximum feasible improvement in energy efficiency which such industry can achieve by January 1, 1980, and

(3) shall be published in the Federal Register, together with a statement of the basis and justification for each such target.

(d) Any target established under subsection (a) or (c) may be modified at any time if the Administrator—

(1) determines that such target cannot reasonably be attained, or could reasonably be made more stringent, and

(2) publishes such determination in the Federal Register, together with a statement of the basis and justification for such modification.

REPORTS

SEC. 375. (a) The chief executive officer (or individual designated by such officer) of each corporation which is identified by the Administrator pursuant to section 373, and which is in an industry for which an industrial energy efficiency improvement target has been set under section 374(a), shall report to the Administrator not later than January 1, 1977, and annually thereafter, on the progress which such corporation has made in improving its energy efficiency. Such report shall contain such information as the Administrator determines is necessary to measure progress toward meeting the energy efficiency improvement target set for the industry of which such corporation is a part, except that the Administrator shall not require such report if such corporation is in an industry which has an adequate voluntary reporting program (as defined by section 376(g)).

(b) The Administrator shall prepare, publish, and make available, for use in complying with the reporting requirements under subsection (a), a simple form which shall be designed in such a way as to avoid imposing an undue burden on any corporation which is required to submit reports under subsection (a).

(c) The Administrator shall prepare and submit to the Congress and to the President, and shall cause to be published, an annual report on the industrial energy efficiency program established under section 372. Each such report shall include—

(1) a summary of the progress made toward the achievement of the industrial energy efficiency improvement targets set by the Administrator; and

(2) a summary of the progress made toward meeting such industrial energy efficiency improvement targets since the date of publication of the previous such report, if any.

GENERAL PROVISIONS

SEC. 376. (a) The district courts of the United States shall have jurisdiction, upon petition, to issue an order to the chief executive officer of any corporation subject to the reporting requirements of section 375(a), requiring such person to comply forthwith. Failure to obey such an order shall be treated by any such court as a contempt thereof.

(b) In addition to the exercise of authority under this part, the Administrator may exercise any authority he has under any provision of law (other than this part) to obtain such information with respect to industrial energy efficiency and industrial energy conservation as is necessary or appropriate to the attainment of the objectives of the program established under section 372.

(c) The Administrator shall afford interested persons an opportunity to submit written and oral data, views, and arguments prior to the establishment of any industrial energy efficiency improvement target under section 374 and prior to publication of any reporting requirements under section 375.

(d) Any information submitted by a corporation to the Administrator under this part shall not be considered energy information, as defined by section 11(e)(1) of the Energy Supply and Environmental Coordination Act of 1974, for purposes of any verification examination authorized to be conducted by the Comptroller General under section 501 of this Act.

(e) The Administrator may not disclose any information obtained under this part which is a trade secret or other matter described in section 552(b)(4) of title 5, United States Code, disclosure of which may cause significant competitive damage: except to committees of Congress upon request of such committees. Prior to disclosing any information described in such section 552(b)(4), the Administrator shall afford the person who provided such information an opportunity to comment on the proposed disclosure.

(f) No liability shall attach, and no civil or criminal penalties may be imposed, for any failure to meet any industrial energy efficiency improvement target established under section 374 of this Act.

(g)(1) The Administrator shall exempt a corporation from the requirements of section 375(a) if such corporation is in an industry which has an adequate voluntary reporting program, as determined by the Administrator annually after notice and opportunity for interested persons to comment. An industry's voluntary reporting program shall be determined to be adequate only if—

(A) each corporation within such indus-

try which is identified under section 373 fully participates in such program;

(B) all information deemed necessary by the Administrator for purposes of evaluating the progress made by such industry in achieving the industry energy efficiency improvement target set forth under section 374 is provided to the Administrator; and

(C) reports made to a trade association or other person, in connection with such program, are retained for a reasonable period of time and are available to the Administrator.

(2) If the Administrator determines that an industry's voluntary reporting program is not adequate solely on the basis that any corporation within such industry is not fully participating in such program, he shall exempt from the requirements of section 375(a) only those corporations which fully participate in such program.

(h) Nothing in this part shall limit the authority of the Administrator to require reports of energy information under any other law.

PART E—OTHER FEDERAL ENERGY CONSERVATION MEASURES

FEDERAL ENERGY CONSERVATION PROGRAMS

SEC. 381. (a)(1) The President shall, to the extent of his authority under other law, establish or coordinate Federal agency actions to develop mandatory standards with respect to energy conservation and energy efficiency to govern the procurement policies and decisions of the Federal Government and all Federal agencies, and shall take such steps as are necessary to cause such standards to be implemented.

(2) The President shall develop and, to the extent of his authority under other law, implement a 10-year plan for energy conservation with respect to buildings owned or leased by an agency of the United States. Such plan shall include mandatory lighting efficency standards, mandatory thermal efficiency standards and insulation requirements, restrictions on hours of operation, thermostat controls, and other conditions of operation, and plans for replacing or retrofitting to meet such standards.

(b)(1) The Administrator shall establish and carry out a responsible public education program—

(A) to encourage energy conservation and energy efficiency—; or

(B) to promote van pooling and carpooling arrangements. (2) For purposes of this subsection:

(A) The term "van" means any automobile which the Administrator determines is manufactured primarily for use in the transportation of not less than 8 individuals and not more than 15 individuals.

(B) The term "van pooling arrangement" means an arrangement for the transportation of employees between their residences or other designated locations and their place of employment on a nonprofit basis in which the operating costs of such arrangement are paid for by the employees utilizing such arrangement.

(c) The President shall submit to the Congress an annual report concerning all steps taken under subsections (a) and (b).

ENERGY CONSERVATION IN POLICIES AND PRACTICES OF CERTAIN FEDERAL AGENCIES

SEC. 382. (a)(1) The Civil Aeronautics Board, the Interstate Commerce Commission, the Federal Maritime Commission, the Federal Power Commission, and the Federal Aviation Administration shall each conduct a study and shall each report to the Congress within 60 days after the date of enactment of this Act with respect to energy conservation policies and practices which such agencies have instituted subsequent to October 1973.

(2) Each of the agencies specified in paragraph (1) shall, within 120 days after the date of enactment of this Act, report to the Congress with respect to the content and feasibility of proposed programs for additional savings in energy consumption by the persons regulated by each such agency which have as a minimum goal a 10-percent reduction, within 12 months of the institution of such programs, in energy consumption from the amount of energy consumed during calendar 1972, including any legislative recommendations each such agency finds are necessary to achieve such goal.

(3) Each of the agencies specified in paragraph (1) shall conduct a study and prepare a report with respect to any requirement of any law administered by such agency or any major regulatory action which the agency determines had the effect of requiring, permitting, or inducing the inefficient use of petroleum products, coal, natural gas, electricity, and other forms of energy, together with a statement of the need, purpose, or justification of any such requirement or such action. Each such report shall be submitted to the Congress within one year after the date of enactment of this Act.

(b) Except as provided in subsection (c), each of the agencies specified in subsection (a)(1) shall, where practicable and consistent with the exercise of their authority under other law, include in any major regulatory action (as defined by rule by each such agency) taken by each such agency, a statement of the probable impact of such major regulatory action on energy efficiency and energy conservation.

(c) Subsection (b) shall not apply to any authority exercised under any provision of law designed to protect the public health or safety.

FEDERAL ACTIONS WITH RESPECT TO RECYCLED OIL

SEC. 383. (a) The purposes of this section are—

(1) to encourage the recycling of used oil;

(2) to promote the use of recycled oil;

(3) to reduce consumption of new oil by promoting increased utilization of recycled oil; and

(4) to reduce environmental hazards and wasteful practices associated with the disposal of used oil.

(b) As used in this section:

(1) the term "used oil" means any oil which has been refined from crude oil, has been used, and as a result of such use has been contaminated by physical or chemical impurities.

(2) The term "recycled" oil means—

(A) used oil from which physical and chemical contaminants acquired through use have been removed by re-refining or other processing, or

(B) any blend of oil, consisting of such re-refined or otherwise processed used oil and new oil or additives,

with respect to which the manufacturer has determined, pursuant to the rule prescribed under subsection (d)(1)(A)(i), is substantially equivalent to new oil for a particular end use.

(3) The term "new oil" means any oil which has been refined from crude oil and has not been used, and which may or may not contain additives. Such term does not include used oil or recycled oil.

(4) The term "manufacturer" means any person who re-refines or otherwise processes used oil to remove physical or chemical impurities acquired through use or who blends such re-refined or otherwise processed used oil with new oil or additives.

(5) The term "Commission" means the Federal Trade Commission.

(c) As soon as practicable after the date of enactment of this Act, the National Bureau of Standards shall develop test procedures for the determination of substantial equivalency of re-refined or otherwise processed used oil or blend of oil, consisting of such re-refined or otherwise processed used oil and new oil or additives, with new oil for a particular end use. As soon as practicable after development of such test procedures, the National Bureau of Standards shall report such procedures to the Commission.

(d)(1)(A) Within 90 days after the date on which the Commission receives the report under subsection (c), the Commission shall, by rule, prescribe—

(i) test procedures for the determination of substantial equivalency of re-refined or otherwise processed used oil or blend of oil, consisting of such re-refined or otherwise processed used oil and new oil or additives, with new oil distributed for a particular end use; and

(ii) labeling standards applicable to containers of recycled oil in order to carry out the purposes of this section.

(B) Such labeling standards shall permit any container of recycled oil to bear a label indicating any particular end use for which a determination of substantial equivalency has been made pursuant to subparagraph (A)(i).

(2) Not later than the expiration of such 90-day period, the Administrator of the Environmental Protection Agency shall, by rule, prescribe labeling standards applicable to containers of new oil, used oil, and recycled oil relating to the proper disposal of such oils after use. Such standards shall be designed to reduce, to the maximum extent practicable, environmental hazards and wasteful practices associated with the disposal of such oils after use.

(e) Beginning on the effective date of the standards prescribed pursuant to subsection (d)(1)(A)—

(1) no rule or order of the Commission, other than the rules required to be prescribed pursuant to subsection (d)(1)(A), and no law, regulation, or order of any State or political subdivision thereof may apply, or remain applicable, to any container of recycled oil, if such law, regulation, rule, or order requires any container of recycled oil, which container bears a label in accordance with the terms of the rules prescribed under subsection (d)(1)(A), to bear any label with respect to the comparative characteristics of such recycled oil with new oil which is not identical to that permitted by the rule respecting labeling standards prescribed under subsection (d)(1)(A)(ii); and

(2) no rule or order of the Commission may require any container of recycled oil to also bear a label containing any term, phrase, or description which connotes less than substantial equivalency of such recycled oil with new oil.

(f) After the effective date of the rules required to be prescribed under subsection (d)(1)(A), all Federal officials shall act within their authority to carry out the purposes of this section, including—

(1) revising procurement policies to encourage procurement of recycled oil for military and nonmilitary Federal uses whenever such recycled oil is available at prices competitive with new oil procured for the same end use; and

(2) educating persons employed by Federal and State governments and private sectors of the economy of the merits of recycled oil, the need for its use in order to reduce the drain on the Nations oil reserves, and proper disposal of used oil to avoid waste of such oil and to minimize environmental hazards associated with improper disposal.

TITLE IV—PETROLEUM PRICING POLICY AND OTHER AMENDMENTS TO THE ALLOCATION ACT

PART A—PRICING POLICY

OIL PRICING POLICY

SEC. 401. (a) The Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new sections:

"OIL PRICING POLICY

"SEC. 8. (a) Not later than the first day of the second full calendar month following the date of enactment of this section, the Presi-

dent shall promulgate and make effective an amendment to the regulation under section 4(a) of this Act which regulation, as amended, shall establish ceiling prices (or the manner of determining ceiling prices) applicable to any first sale of crude oil produced in the United States, such that the resulting actual weighted average first sale price for all such crude oil during such calandar month and each of the 39 months thereafter shall not exceed a maximum of $7.66 per barrel (hereinafter in this section referred to as the "maximum weighted average first sale price"), except as may be adjusted pursuant to this section.

"(b)(1) The regulation under section 4(a), as amended pursuant to subsection (a) of this section or by any subsequent amendment thereto, may, subject to the limitations related to the maximum weighted average first sale price and other requirements of this section, provide for different ceiling prices (or manner of determining ceiling prices) for different classifications of crude oil produced in the United States. In providing for different ceiling prices (or the manner for determining such ceiling prices) and classifications for such crude oil, the President shall determine that such ceiling prices (or the manner for determining such ceiling prices) and such classifications—

"(A) are administratively feasible; and

"(B) are justified on the basis that such prices and such classifications are consistent with obtaining optimum production of crude oil in the United States.

"(2) No amendment to the regulation under section 4(a) made after the date of enactment of this section may permit, in any month which begins after such date, an increase in the price for any volume of old crude oil production from any properties, unless the President finds that such amendment—

"(A) will give positive incentives for (i) enhanced recovery techniques, or (ii) deep horizon development from such properties; or

"(B) is necessary to take into account declining production from such properties; and

"(C) is likely to result in a level of production from such properties beyond that which would otherwise occur if no such amendment were made.

"(3) As used in paragraph (2), the term 'old crude oil production' means that volume of crude oil produced and sold from a property in a month which is equal to or less than the volume of old crude oil, as defined in section 212.72 of title 10, Code of Federal Regulations (as in effect on November 1, 1975), produced and sold from such property in the months of September, October, and November of 1975, divided by 3.

"(c)(1) Not later than 6 months after the effective date of the amendment promulgated under subsection (a), and not later than every 6 months thereafter, the President shall, on the basis of valid and reliable information (which may include information obtained by a valid and reliable sampling technique) of actual first sale prices of domestic crude oil, determine whether and the extend to which the actual weighted average first sale price for crude oil produced in the United States during any 6-month period or portion thereof forwhich data are available following the effective date of the amendment promulgated under subsection (a) of this section, exceeded or was less than riod or portion thereof for which data are price of such crude oil specified in subsection (a) as may be adjusted pursuant to this section.

"(2) If the President finds, pursuant to paragraph (1) of this subsection, that the regulation under section 4(a), as amended, resulted in an actual weighted average first sale price in excess of the maximum weighted average first sale prices specified in subsection (a) as adjusted pursuant to this section 3 he shall amend the regulation to make such compensating adjustments as are necessary to result, in a corresponding period, in an actual weighed average first sale price for domestic crude oil sufficient to offset such excess.

"(3) If the President finds, pursuant to paragraph (1) of this subsection, that the regulation under section 4(a), as amended, resulted in an actual weighted average first sale price less than the maximum weighted average first sale price specified in subsection (a) as adjusted pursuant to this section, he may, notwithstanding the requirements of this section pertaining to such maximum weighted average first sale price, amend the regulation to make such compensating adjustments in the regulation as are necessary to offset the deficiency in a corresponding period.

"(d)(1) The amendment promulgated pursuant to subsection (a) of this section (or any subsequent amendment to the regulation under section 4(a)) may provide for an adjustment to the maximum weighted average first sale price specified in subsection (a), such adjustment to begin no earlier than in the calendar month following the first month the amendment is in effect—

"(A) to take into account the impact of inflation as measured by the adjusted GNP deflator; and

"(B) as a production incentive;

except that any adjustment as a production incentive shall not permit an increase in the maximum weighted average first sale price in excess of 3 per centum per annum (compounded annually), unless modified pursuant to this section, and the combined effect of any such adjustments referred to in subparagraphs (A) and (B) shall not result in an increase in the maximum weighted average first sale price in excess of 10 per centum per annum (compounded annually), unless modified pursuant to this section.

"(2) As used in this subsection, the term 'adjusted GNP deflator' means the first revision of the quarterly percent change, seasonally adjusted at annual rates, of the most recent implicit price deflator for the gross national product which shall be computed and published for each calendar quarter by the Department of Commerce, subject to such additional modification as the President shall make to exclude therefrom any amount which he determines is attributable solely and directly to increases which occur after the date of enactment of this section in prices of imported crude oil, residual fuel oil, or any refined petroleum product resulting from concerted action of two or more petroleum exporting countries.

"(3) The adjustment as a production incentive referred to in paragraph (1)(B) may be made only on a finding by the President that such an adjustment is likely to provide positive incentive for—

"(A) the discovery or development of high cost and high risk properties (including new wildcat properties, and properties located on the Outer Continental Shelf, properties located north of the Arctic Circle, deep wells and deep horizons in onshore or offshore properties, and properties operated by independent producers);

"(B) the application of enhanced recovery techniques to producing properties to obtain a level of production higher than would otherwise occur from those properties but for such adjustment; or

"(C) sustaining production from marginal wells, including production from stripper wells.

"(e)(1) Not earlier than 90 days after the effective date of the amendment promulgated under subsection (a) and not earlier than 90 days after the date of any previous submission under this subsection, the President may submit to the Congress, in accordance with the procedures specified in section 551 of the Energy Policy and Conservation Act, an amendment to the regulation promulgated under section 4(a) which provides for (A) a production incentive adjustment to the maximum weighted average first sale price in excess of the 3 per centum limitation specified in subsection (d)(1), (B) a combined adjustment limitation in excess of the 10 per centum limitation specified in such subsection, or (C) both.

"(2) Any such amendment shall be accompanied by a finding that an additional adjustment as a production incentive, or a combined adjustment limitation greater than permitted by subsection (d)(1), or both, is necessary to provide a more adequate incentive with respect to the matters referred to in subparagraphs (A), (B), or (C) of subsection (d)(3).

"(3) Any such amendment shall not take effect if either House of Congress disapproves such amendment in accordance with the procedures specified in section 551 of the Energy Policy and Conservation Act.

"(f)(1) On February 15, 1977, the President shall submit to the Congress a report containing an analysis of the impact of any amendment adopted pursuant to this section on the economy and on the supply of crude oil, residual fuel oil, and refined petroleum products.

"(2) The President may submit with such report to the Congress, in accordance with the procedures specified in section 551 of the Energy Policy and Conservation Act, an amendment to the regulation promulgated under section 4(a) which—

"(A) provides for the continuation or modification of the adjustment as a production incentive (referred to in subsection (d) as may have been amended pursuant to subsection (e));

"(B) provides for a modification of the combined adjustment limitation (referred to in subsection (d), as may have been amended pursuant to subsection (e)); or

"(C) provides for adjustments with respect to both subparagraphs (A) and (B).

"(3) Such amendment shall not take effect if either House of Congress disapproves such amendment in accordance with the procedures specified in section 551 of the Energy Policy and Conservation Act.

"(4) If any such amendment is disapproved by either House of Congress, the President may, not later than 30 days after the date of such disapproval, submit one additional amendment in accordance with paragraph (2), which amendment shall not take effect if either House of Congress disapproves such amendment in accordance with the procedures specified in section 551 of the Energy Policy and Conservation Act.

"(5) If no amendment to continue or modify the adjustment as a production incentive takes effect, no such adjustment to the maximum weighted average first sale price thereafter may be taken into account in computing such price for any month which begins after (A) the date on which a submission could have been made under paragraph (2) but was not, or (B) the last date on which a submission was disapproved and no further submission pursuant to paragraph (4) could be made, except that the President may, pursuant to the procedures under subsection (e), submit an amendment to the regulation to provide for a prospective reinstatement of such adjustment or of a modification of such adjustment.

"(g)(1) On April 15, 1977, the President shall submit to the Congress a report as to whether the regulation promulgated under section 4(a) and in effect on such date will provide positive price incentives for the development of the domestic crude oil production referred to in paragraph (2)(A) without lessening needed incentives for sustaining or enhancing crude oil production in the remainder of the United States.

"(2) If the President determines that a price required to provide positive price incen-

tives for the development of the domestic crude oil production referred to in paragraph (2)(A) would, because of the maximum weighted average first sale price specified in subsection (a) of this section, as adjusted, have the effect of reducing or limiting ceiling prices permitted for crude oil produced in the remainder of the United States to levels which would result in less production of such crude oil than would otherwise occur, the President may, together with such report, or at any time thereafter not earlier than 90 days after any previous submission under this subsection, except as provided in paragraph (4), submit to the Congress in accordance with the procedures specified in section 551 of the Energy Policy and Conservation Act an amendment to the regulation promulgated under section 4(a) which—

"(A) excludes up to 2 million barrels a day of crude oil production transported through the trans-Alaska pipeline from the computation of the maximum weighted average first sale price specified in subsection (a); and

"(B) establishes ceiling prices (or a manner of determining prices) for the first sale of crude oil production referred to in subparagraph (A) such that the actual weighted average first sale price for such production will not exceed the highest actual weighted average first sale price permitted under the regulation for significant volumes of any other classification of domestic crude oil

(3) Any such amendment shall be accompanied by such findings and support rationale as the President determines justify such ceiling prices (or manner for determining such prices). Any amendment submitted to the Congress pursuant to this subsection shall not take effect if either House of Congress disapproves such amendment in accordance with the procedures specified in section 551 of the Energy Policy and Conservation Act.

"(4) If any such amendment is disapproved by either House of Congress, the President may not later than 30 days after the date of such disapproval submit one additional amendment in accordance with paragraphs (2) and (3), which amendment shall not take effect if either House of Congress disapproves such amendment in accordance with the procedures specified in section 551 of the Energy Policy and Conservation Act.

"(5) If any amendment submitted by the President to the Congress pursuant to this subsection becomes effective, such amendment may thereafter be further amended by the President, subject to the procedures and requirements of paragraphs (2) and (3) of this subsection, except that no such further amendment shall be submitted earlier than January 1, 1978, and thereafter no earlier than 90 days after the date of any previous submission made under this paragraph.

"(h) In any judicial review of an amendment required by this section to be submitted to the Congress in accordance with the procedures specified in section 551 of the Energy Policy and Conservation Act, the reviewing court may not hold unlawful or set aside any such amendment on the ground that any findings made by the President were not adequate to meet the requirements of this section or of subparagraph (A), (E), or (F) of section 706(2) of title 5, United States Code.

"PASSTHROUGHS OF PRICE DECREASES

"SEC. 9. Not later than the first day of the second full calendar month following the date of enactment of this section, the regulation under section 4(a) shall provide for a dollar-for-dollar passthorugh in prices at all levels of distribution from the producer through the retail level of decreases in the costs of crude oil, residual fuel oil, and refined petroleum products (including decreases in costs which result from a reduction in the price of crude oil produced in the United States because of the amendment to such regulation required under section 8(a)).".

(b)(1) Subsections (d), (e) and (g) of section 4 of the Emergency Petroleum Allocation Act of 1973 are repealed, and subsection (f) of such section 4 is redesignated as subsection "(d)" of such section 4.

(2) Section 4(a) of such Act is amended by (A) striking out "Subject to subsection (f)" an inserting in lieu thereof "Subject to subsection (d)"; and (B) striking out "Except as provided in subsection (e) such" and inserting in lieu thereof "Such".

(3) Section 4(c) of such Act is amended in paragraphs (1), (4), and (5) thereof by striking out "subsections (b) and (d)" wherever it appears and by inserting in lieu thereof in each case "subsection (b)".

(4) Section 406 of Public Law 93-153 is repealed.

(5) The amendments made by paragraphs (1), (2), (3), and (4) of this subsection, to the Emergency Petroleum Allocation Act of 1973, shall take effect on the effective date of the amendment to the regulation under section 4(a), required by section 8(a) of such Act.

LIMITATIONS ON PRICING POLICY

SEC. 402. (a) Paragraph (2) of section 4 (b) of the Emergency Petroleum Allocation Act of 1973 is amended to read as follows:

"(2) In specifying prices (or prescribing the manner for determining them), the regulation under subsection (a)—

"(A) shall provide for a dollar-for-dollar passthrough of net increases in the cost of crude oil, residual fuel oil, and refined petroleum products at all levels of distribution from the producer through the retail level;

"(B)(i) shall not permit any net crude oil cost increases—

"(I) which are incurred by a refiner during the calendar month immediately preceding the effective date of this paragraph, or in any month thereafter, and

"(II) which are not passed through in prices charged pursuant to such regulation in the 2 calendar months following the calendar month in which such crude oil cost increases were incurred,

to be passed through by such refiner in any month subsequent to the 2 calendar months following the calendar month in which such crude oil cost increases were incurred, unless the President makes the findings specified in clause (ii)(II)(aa), and such passthrough is consistent with the requirements specified in clause (ii)(II)(bb).

"(ii) shall not permit the passthrough in any month of—

"(I) any net crude oil cost increases incurred by a refiner not later than the last day of the calendar month which begins two months prior to the effective date of this paragraph and not passed through by the end of the last calendar month prior to the effective date of this paragraph unless such passthrough is not in excess of 10 percent of the total amount of such increased crude oil costs not passed through as of the last day of the last calendar month prior to the effective date of the amendment promulgated under section 8(a); and

"(II) any net crude oil cost increases incurred by a refiner after the effective date of this paragraph, which net crude oil cost increases were not passed through within the 2 calendar months following the calendar month in which such crude oil cost increases were incurred, unless—

"(aa) the President finds, and reports to the Congress with respect to such finding, that a passthrough of such crude oil increases is necessary to alleviate the impact on refiners, marketers, or consumers of significant increases in costs, to provide for equitable cost recovery consistent with the attainment, to the maximum extent practicable, of the objectives specified in paragraph (1), or to avoid competitive disadvantage; and

"(bb) such passthrough in any month of such crude oil cost increases is not in excess of 10 percent of the total amount of such crude oil cost increases as of the end of the calendar month in which the effective date of this paragraph occurs or any month thereafter;

"(C) shall provide for the use of the same date in the computation of markup, margin, and posted price for all marketers or distributors of crude oil, residual fuel, and refined petroleum products at all levels of marketing and distribution; and

"(D) shall not permit more than a direct proportionate distribution (by volume) to Number 2 oils (Number 2 heating oil and Number 2-D diesel fuel), aviation fuel of a kerosene or naphtha type, and propane produced from crude oil, of any increased costs of crude oil incurred by a refiner; except that the President may, by amendment to the regulation under subsection (a) or by order, permit deviation from such proportionate distribution of costs, if the President finds that refinery operations justify such deviation and further finds that to permit such deviation is consistent with the attainment of the objectives in paragraph (1) and would not result in inequitable prices for any class of users of such product.

As used in this paragraph, the term 'effective date of this paragraph' means the effective date specified in section 402(b) of the Energy Policy and Conservation Act.".

(b) The amendment made by this section, to the Emergency Petroleum Allocation Act of 1973, shall take effect on the effective date of the amendment to the regulation under section 4(a), required by section 8(a) of such Act.

(c) The Emergency Petroleum Allocation Act of 1973, as amended by this Act, is further amended by adding at the end thereof the following new section:

"LIMITATIONS ON PRICING AUTHORITY

"SEC. 10. The President shall have no authority, under this Act, or under the Energy Policy and Conservation Act, to prescribe minimum prices for crude oil (or any classification thereof), residual fuel oil, or any refined petroleum product.".

ENTITLEMENTS

SEC. 403. (a) Section 4 of the Emergency Petroleum Allocation Act of 1973, as amended by this Act, is further amended by adding at the end thereof the following:

"(e) Any provision of the regulation under subsection (a) of this section—

"(1) which requires the purchase of entitlements, or the payment of money through any other similar cash transfer arrangement, the purpose of which is to reduce disparities in the crude oil acquisition costs of domestic refiners, and

"(2) which is based upon the number of barrels of crude oil input, or receipts, or both, of any refiner,

shall not apply to the first 50,000 barrels per day of input, or receipts, or both, of any refiner whose total refining capacity (including the refining capacity of any person who controls, is controlled by, or is under common control with such refiner) did not exceed on January 1, 1975, and does not thereafter exceed 100,000 barrels per day. The preceding sentence shall not affect any provisions of the regulation under subsection (a) of this section with respect to the receipt by any small refiner as defined in section 3(4) of payments for entitlements or any other similar cash transfer arrangement.".

(b) Subsection (a) of this section shall apply with respect to payments due on or after the last day of the month during which the date of enactment of this Act occurs.

PART B—OTHER AMENDMENTS TO THE ALLOCATION ACT

AMENDMENTS TO THE OBJECTIVES OF THE ALLOCATION ACT

SEC. 451. (a) Section 4(b)(1)(A) of the Emergency Petroleum Allocation Act of 1973 is amended to read as follows:

"(A) protection of public health (including the production of pharmaceuticals), safety and welfare (including maintenance of residential heating, such as individual homes, apartments and similar occupied dwelling units), and the national defense;".

(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;".

PENALTIES UNDER THE ALLOCATION ACT

SEC. 452. Section 5 of the Emergency Petroleum Allocation Act of 1973 is amended:

(1) by striking out "sections 205 through 211" in subsection (a)(1) of such section and inserting in lieu thereof "sections 205 through 207 and sections 209 through 211"; and

(2) by adding at the end of subsection (a) of such section the following:

"(3)(A) Whoever violates any provision of the regulation under section 4(a) of this Act, or any order under this Act shall be subject to a civil penalty—

"(i) with respect to activities relating to the production, distribution, or refining of crude oil, of not more than $20,000 for each violation;

"(ii) with respect to activities relating to the distribution of residual fuel oil or any refined petroleum product (other than activities entirely at the retail level), of not more than $10,000 for each violation; and

"(iii) with respect to activities—

"(I) entirely relating to the distribution of residual fuel oil or any refined petroleum product at the retail level, or (II) activities not referred to in clause (i) or (ii) or subclause (I) of this clause,

of not more than $2,500 for each violation.

"(B) Whoever willfully violates any provision of such regulation, or any such order shall be imprisoned not more than 1 year, or—

"(i) with respect to activities relating to the production or refining of crude oil, shall be fined not more than $40,000 for each violation;

"(ii) with respect to activities relating to the distribution of residual fuel oil or any refined petroleum product (other than at the retail level), shall be fined not more than $20,000 for each violation;

"(iii) with respect to activities relating to the distribution of residual fuel oil or any refined petroleum product at the retail level or any other person shall be fined not more than $10,000 for each violation;

or both.

"(4) Any individual director, officer, or agent of a corporation who knowingly and willfully authorizes, orders, or performs any of the acts or practices constituting in whole or in part a violation of paragraph (3), shall be subject to penalties under this subsection without regard to any penalties to which that corporation may be subject under paragraph (3) except that no such individual director, officer, or agent shall be subject to imprisonment under paragraph (3), unless he also has knowledge, or reasonably should have known, of notice of noncompliance received by the corporation from the President.".

ANTITRUST PROVISION IN ALLOCATION ACT

SEC. 453. Section 6(c) of the Emergency Petroleum Allocation Act of 1973 is amended to read as follows:

"(c) There shall be available as a defense to any action brought for breach of contract in any Federal or State court arising out of delay or failure to provide, sell, or offer for sale or exchange crude oil, residual fuel oil, or any refined petroleum product, that such delay or failure was caused solely by compliance with the provisions of this Act or with the regulation or any order under this Act.".

EVALUATION OF REGULATION UNDER THE ALLOCATION ACT

SEC. 454. The Emergency Petroleum Allocation Act of 1973, as amended by this Act, is further amended by adding at the end thereof the following new section:

"REEVALUATION OF SECTION 4(a) REGULATION

"SEC. 11. (a) Not later than 60 days after the date of enactment of this section, the President shall give appropriate notice and afford interested persons an opportunity to present written and oral data, views, and arguments, respecting the appropriateness of, or the continuing need for, the application of any provision of the regulation promulgated under section 4(a) as such provision relates to the attainment of the objectives specified in section 4(b)(1) of section 4. A transcript shall be kept of any such oral presentation of data, views, and argument.

"(b) The President shall, after consideration of such written and oral presentations and such other information as may be available to him—

"(1) analyze such presentations and report thereon to the Congress within 120 days after the date of enactment of this section; and

"(2) shall promulgate, pursuant to the limitations and authority under section 12, such amendment, or amendments, to the regulation promulgated under section 4(a) as he determines are necessary or appropriate—

"(A) to modify any provisions of such regulation in a manner which is consistent with the attainment, to the maximum extent practicable, of objectives specified in section 4(b)(1); or

"(B) to eliminate any provisions of such regulation no longer necessary to provide for the attainment of such objectives.".

CONVERSION TO STANDBY AUTHORITIES

SEC. 455. The Emergency Petroleum Allocation Act of 1973, as amended by this Act, is further amended by adding at the end thereof the following new section:

"CONVERSION MECHANISM TO STANDBY AUTHORITIES

"SEC. 12. (a) The President may not amend the regulation under section 4(a) in any manner which—

"(1) exempts crude oil produced in the United States from any provision of such regulation required to be made a part of such regulation by section 8; or

"(2) results in making such regulation, as so amended, inconsistent with any limitation or other requirement specified in section 8.

"(b) Except as provided in subsection (a), the President may amend the regulation under section 4(a) if he determines that such amendment is consistent with the attainment, to the maximum extent practicable, of the objectives specified in section 4(b)(1) and that the regulation, as amended, provides for the attainment, to the maximum extent practicable, of such objectives.

"(c)(1) Any such amendment which, with respect to a class of persons or class of transactions (including transactions with respect to any market level), exempts crude oil, residual fuel oil, or any refined petroleum product or refined product category from the provisions of the regulation under section 4(a) as such provisions pertain to either (A) the allocation of amounts of any such oil or product, or (B) the specification of price or the manner for determining the price of any such oil or product, or both of the matters described in subparagraphs (A) and (B), may take effect only pursuant to the provisions of this subsection.

"(2) The President shall submit any amendment referred to in paragraph (1) to the Congress in accordance with the procedures specified in section 551 of the Energy Policy and Conservation Act. Any such amendment shall be accompanied by a specific statement of the President's rationale for such amendment and the matter described in subsection (d) of this section. Such an amendment—

"(A) may apply only to one oil or one refined product category;

"(B) may apply to the matters specified in either subparagraph (A) or (B) of paragraph (1) of this subsection, or both; and

"(C) may provide for scheduled or phased implementation.

"(3) As used in this section the term 'refined product category' means—

"(A) motor gasoline;

"(B) Number 2 oils (Number 2 heating oil and Number 2-D diesel fuel);

"(C) propane; or

"(D) all or any portion of other refined petroleum products a class (including natural gas liquids and natural gas liquid products, other than propane).

"(4) Such an amendment shall not take effect if either House of Congress disapproves such amendment in accordance with the procedures specified in section 551 of the Energy Policy and Conservation Act.

"(d)(1) The President shall support any amendment described in subsection (b) which is transmitted to the Congress under subsection (c) of this section with a finding that such amendment is consistent with the attainment of the objectives specified in subsection 4(b)(1) and in the case of—

"(A) any exemption described in subsection (c)(1)(A), with a finding that such oil or refined product category is no longer in short supply and that exempting such oil or refined product category will not have an adverse impact on the supply of any other oil or refined petroleum product subject to this Act; and

"(B) any exemption described in subsection (c)(1)(B), with a finding that competition and market forces are adequate to protect consumers and that exempting such oil or refined product category will not result in inequitable prices for any class of users of such oil or product.

"(2) Any amendment which the President submits to the Congress under subsection (c) of this section shall be accompanied—

"(A) by a statement of the President's views as to the potential economic impacts (if any) of such amendment which, where practicable, shall include his views as to—

"(i) the State and regional impacts of such amendment (including effects on governmental units);

"(ii) the effects of such amendment on the availability of consumer goods and services; the gross national product; competition; small business; and the supply and availability of energy resources for use as fuel or as feedstock for industry; and

"(iii) the effects on employment and consumer prices; and

"(B) in the case of an exemption described in subsection (c)(1)(B) of this section, by an analysis of the effects to such amendment on the rate of unemployment for the United States, the Consumer Price Index for the United States, and the implicit price deflator for the gross national product.

"(e) In any judicial review of an amendment required by this section to be submitted to Congress in accordance with the procedures specified in section 551 of the

Energy Policy and Conservation Act, the reviewing court may not hold unlawful or set aside any such amendment on the ground that any findings made by the President were not adequate to meet the requirements of subsection (c), (d), or (g) of this section or subparagraph (A), (E), or (F), of section 706(2) of title 5, United States Code.

"(f) With respect to any oil or refined product category which is exempted to pursuant to the provisions of this section, the President shall have authority at any time thereafter to prescribe a regulation or issue an order respecting either the allocation of amounts, or the specification of price or the manner for determining the price, for any such oil or refined product category upon a determination by him that such regulation or order is necessary to attain, and is consistent with, the objectives specified in section 4(b)(1). Any such oil or refined product category for which allocation or price requirements are reimposed under authority of this subsection may subsequently be exempted without regard to the provisions of subsection (c) of this section.

"(g) Notwithstanding the provisions of subsection (e) of section 4, the President may, if he determines that the exemption from payments for certain small refiners required by such subsection—

"(1) results in unfair economic or competitive advantage with respect to other small refiners; or

"(2) otherwise has the effect of seriously impairing the President's ability to provide in the regulation under section 4(a) for the attainment of the objective specified in section 4(b)(1)(D) and for the attainment of those other objectives specified in section 4(b)(1);

submit, in accordance with the procedures specified in section 551 of the Energy Policy and Conservation Act, an amendment to modify the regulation under section 4(a) with respect to the provisions of such regulation as they relate to such exemption. Such amendment shall not take effect if disapproved by either House of Congress under the procedures specified in such sections 551.".

TECHNICAL PURCHASE AUTHORITY

SEC. 456. The Emergency Petroleum Allocation Act of 1973, as amended by this Act, is further amended by adding at the end thereof the following new section:

"TECHNICAL PURCHASE AUTHORITY

"SEC. 13. (a) The President may, by amendment to the regulation under section 4(a) of this Act, provide for and implement a procedure pursuant to which the United States may exercise the exclusive right to import and purchase all or any part of the crude oil, residual fuel oil, and refined petroleum products of foreign origin for resale in the United States.

"(b) The authorities granted under this section shall not be used for the purpose, or with the effect, of providing a subsidy or preference to any importer, purchaser, or user.

"(c) In exercising any authorities granted under this section, the President shall endeavor to buy and sell without profit or loss, except that the President may, in individual cases, sell, on a competitive bid basis, crude oil, residual fuel oil, or any refined petroleum product at a price above or below the cost of such oil or product if, in the judgment of the President, such sales may result in progress toward a lower price for oil sold in international commerce.

"(d) Any amendment to the regulation proposed to be implemented under this section shall be submitted to Congress for review under section 551 of the Energy Policy Conservation Act, together with a detailed explanation of the procedure to be employed and the need therefor and shall be supported by findings by the President that the exercise of such authority is likely to reduce prices for imported oils and products. Such amendment shall not take effect if disapproved by either House of the Congress in accordance with the procedures specified in section 551 of such Act and any authority to purchase shall be subject to appropriations Acts.

"(e) The President shall submit, within 90 days after the date of enactment of this section, a report which evaluates the feasibility of reducing the price of crude oil, residual fuel oil, or refined petroleum products of foreign origin for resale in the United States by providing incentives for domestic producers who also import such oils or products into the United States, to work for the reduction of the price of such oils or products. The report shall specifically discuss whether increasing aggregate old crude oil prices by an amount related to any decrease in aggregate prices for such imported oils and products would serve as an incentive for domestic producers to reduce the price of such imported oils and products.".

DIRECT CONTROLS ON REFINERY OPERATIONS

SEC. 457. The Emergency Petroleum Allocation Act of 1973, as amended by this Act, is further amended by adding at the end thereof the following new section:

"DIRECT CONTROLS ON REFINERY OPERATIONS

"SEC. 14. The President may, by amendment to the regulation under section 4(a) of this Act or by order, as may be consistent with the attainment, to the maximum extent practicable, of the objectives specified in section 4(b)(1) of this Act, require adjustments in the operations of any refinery in the United States with respect to the proportions of residual fuel oil or any refined petroleum product produced through such operations if he determines such adjustments are necessary to assure the production of residual fuel oil or any refined petroleum product in such proportions as are necessary or appropriate to provide for the attainment, to the maximum extent practicable, the objectives specified in section 4(b)(1).".

INVENTORY CONTROLS

SEC. 458. The Emergency Petroleum Allocation Act of 1973, as amended by this Act, is further amended by adding at the end thereof the following new section:

"INVENTORY CONTROLS

"SEC. 15. (a) In addition to other authority provided for in this Act to alleviate shortages of crude oil, residual fuel oil, and refined petroleum products, the President may, if he finds an existing or impending regional or national supply shortage of any fuel, by amendment to the regulation under section 4(a) of this Act or by order, consistent with the attainment, to the maximum extent practicable, of the objectives specified in section 4(b)(1), require adjustments in the amounts of crude oil, residual fuel oil or any refined petroleum product which are held in inventory by persons who are engaged in the business of importing, producing, refining, marketing, or distributing such oils or products.

"(b) The authority specified in subsection (a) may be exercised to require either—

"(1) a distribution from such inventories to specified persons or classes of persons at specified rates of distribution or to specified levels of inventory accumulation; or

"(2) the accumulation of inventories at specified rates of accumulation or to specified levels,

as the President determines may be necessary or appropriate to provide for the attainment, to the maximum extent practicable, of the objectives of section 4(b)(1) or as the President determines may be necessary or appropriate to carry out the obligations of the United States under the international energy program, as defined in section 3 of the Energy Policy and Conservation Act.

"(c) The authority specified in subsection (a) may require the maintenance of inventories at levels greater or lesser than such person's normal business or operating requirements; except that such amounts shall not exceed the amount of oil or product, as the case may be, such person would use or distribute during any 90-day period of peak usage and in no case may the requirement to accumulate inventories be applied to any person in a manner which would necessitate such person making physical additions to storage facilities in order to comply with any such rule or order.".

HOARDING PROHIBITIONS

SEC. 459. The Emergency Petroleum Allocation Act of 1973, as amended by this Act, is further amended by adding at the end thereof the following new section:

"HOARDING PROHIBITIONS

"SEC. 16. Except as may be otherwise provided with respect to persons engaged in the business of producing, refining, distributing, or marketing crude oil, residual fuel oil, or any refined petroleum product pursuant to section 15 or pursuant to requirements under section 156 of the Energy Policy and Conservation Act (relating to the Industrial Strategic Petroleum Reserve), the regulation under section 4(a) shall prohibit any person, during a severe energy supply interruption (as defined in section 3 of the Energy Policy and Conservation Act) from willfully accumulating crude oil, residual fuel oil, or any refined petroleum production inventories, or otherwise, in amounts which are in excess of such person's reasonable needs (as such term shall be defined in such regulation).".

ASPHALT ALLOCATION AUTHORITY

SEC. 460. The Emergency Petroleum Allocation Act of 1973, as amended by this Act, is further amended by adding at the end thereof the following new section:

"ASPHALT ALLOCATION AUTHORITY

"SEC. 17. (a) The President may amend the regulation under section 4(a) of this Act to require, in a manner which he finds is consistent with the attainment, to the maximum extent practicable, of the objectives specified in section 4(b)(1) of this Act, the allocation of asphalt in amounts specified in (or determined in the manner prescribed by), or at prices specified in (or determined in a manner prescribed by) such amendment to the regulation, or both.

"(b) If the President exercises the authority under this section, he may thereafter amend the regulation under section 4(a) to exempt asphalt from such regulation without regard to the provisions of section 12 of this Act.".

EXPIRATION OF AUTHORITIES

SEC. 461. The Emergency Petroleum Allocation Act of 1973 is amended by adding to the end of such Act, as amended by this Act, the following new section:

"EXPIRATION OF AUTHORITIES

"SEC. 18. Notwithstanding any other provision of this Act, at midnight on the conclusion of the 40th month in which the amendment under section 8(a) is in effect, the President's authority to promulgate, make effective, and amend a regulation pursuant to section 4(a) of this Act shall become discretionary rather than mandatory, and the limitations on the President's authority contained in sections 4(b)(2), 8, and 9 of this Act shall terminate. The authority to promulgate and amend any regulation or to issue any order under this Act shall expire at midnight September 30, 1981, but such expiration shall not affect any action or pending proceedings, administrative, civil, or criminal, not finally determined on such date, nor any administrative, civil, or criminal action or proceeding, whether or not pending, based upon any act committed or liability incurred prior to such expiration date.".

REIMBURSEMENT TO STATES

SEC. 462. The Emergency Petroleum Allocation Act of 1973, as amended by this Act, is further amended by adding at the end thereof the following new section:

"REIMBURSEMENT TO STATES

"SEC. 19. (a) The President is authorized to reimburse any State for expenses incurred by such State in carrying out any responsibilities delegated to such State by the President under the provisions of this Act.

"(b) Such reimbursement may be paid from any funds appropriated for the purpose of carrying out responsibilities under this Act, unless any appropriation Act specifically provides to the contrary.

"(c) Not later than June 1, 1976, the President shall submit a report to the Congress analyzing and detailing the amount and nature of any reimbursements made to any State for expenses described in subsection (a) incurred prior to such date and specifically recommending whether authorizations of additional funds for direct grants to States are necessary or appropriate for the continued operation of the reimbursement provisions authorized by this section."

EFFECTIVE DATE OF ALLOCATION ACT AMENDMENTS

SEC. 463. Except as otherwise provided, the amendments made by this Act to the Emergency Petroleum Allocation Act of 1973 shall take effect as of midnight, December 15, 1975.

TITLE V—GENERAL PROVISIONS

PART A—ENERGY DATA BASE AND ENERGY INFORMATION

VERIFICATION EXAMINATION

SEC. 501. (a) The Comptroller General may conduct verification examinations with respect to the books, records, papers, or other documents of—

(1) any person who is required to submit energy information to the Federal Energy Administration, the Department of the Interior, or the Federal Power Commission pursuant to any rule, regulation, order, or other legal process of such Administration, Department, or Commission;

(2) any person who is engaged in the production, processing, refining, transportation by pipeline, or distribution (at other than the retail level) of energy resources—

(A) if such person has furnished, directly or indirectly, energy information (without regard to whether such information was furnished pursuant to legal requirements) to any Federal agency (other than the Internal Revenue Service), and

(B) if the Comptroller General of the United States determines that such information has been or is being used or taken into consideration, in whole or in part, by a Federal agency in carrying out responsibilities committed to such agency; or

(3) any vertically integrated petroleum company with respect to financial information of such company related to energy resource exploration, development, and production and the transportation, refining and marketing of energy resources and energy products.

(b) The Comptroller General shall conduct verification examinations of any person or company described in subsection (a), if requested to do so by any duly established committee of the Congress having legislative or oversight responsibilities under the rules of the House of Representatives or of the Senate, with respect to energy matters or any of the laws administered by the Department of the Interior (or the Secretary thereof), the Federal Power Commission, or the Federal Energy Administration (or the Administrator).

(c) For the purposes of this title—

(1) The term "verification examination" means an examination of such books, records, papers, or other documents of a person or company as the Comptroller General determines necessary and appropriate to assess the accuracy, reliability, and adequacy of the energy information, or financial information, referred to in subsection (a).

(2) The term "energy information" has the same meaning as such term has in section 11(e)(1) of the Energy Supply and Environmental Cooperation Act of 1974.

(3) The term "person" has the same meaning as such term has in section 11(e)(2) of the Energy Supply and Environmental Coordination Act of 1974.

(4) The term "vertically integrated petroleum company" means any person which itself or through a person which is controlled by, controls, or is under common control with such person, is engaged in the production, refining, and marketing of petroleum products.

POWERS OF THE COMPTROLLER GENERAL AND REPORTS

SEC. 502. (a) For the purpose of carrying out his authority under section 501—

(1) the Comptroller General may—

(A) sign and issue subpenas for the attendance and testimony of witnesses and the production of books, records, papers, and other documents;

(B) require any person, by general or special order, to submit answers in writing to interrogatories, to submit books, records, papers, or other documents, or to submit any other information or reports, and such answers or other submissions shall be made within such reasonable period, and under oath or otherwise, as the Comptroller General may determine; and

(C) administer oaths.

(2) the Comptroller General, or any officer or employee duly designated by the Comptroller General, upon presenting appropriate credentials and a written notice from the Comptroller General to the owner, operator, or agent in charge, may—

(A) enter, at reasonable times, any business premise or facility; and

(B) inspect, at reasonable times and in a reasonable manner, any such premise or facility, inventory and sample any stock of energy resources therein, and examine and copy books, records, papers, or other documents, relating to any energy information, or any financial information in the case of a vertically integrated petroleum company.

(b) The Comptroller General shall have access to any energy information within the possession of any Federal agency (other than the Internal Revenue Service) as is necessary to carry out his authority under this section.

(c)(1) Except as provided in subsections (d) and (e), the Comptroller General shall transmit a copy of the results of any verification examination conducted under section 501 to the Federal agency to which energy information which was subject to such examination was furnished.

(2) Any report made pursuant to paragraph (1) shall include the Comptroller General's findings with respect to the accuracy, reliability, and adequacy of the energy information which was the subject of such examination.

(d) If the verification examination was conducted at the request of any committee of the Congress, the Comptroller General shall report his findings as to the accuracy, reliability, or adequacy of the energy information which was the subject of such examination, or financial information in the case of a vertically integrated petroleum company, directly to such committee of the Congress and any such information obtained and such report shall be deemed the property of such committee and may not be disclosed except in accordance with the rules of the committee and the rules of the House of Representatives or the Senate and as permitted by law.

(e)(1) Any information obtained by the Comptroller General or any officer or employee of the General Accounting Office pursuant to the exercise of responsibilities or authorities under this section which relates to geological or geophysical information, or any estimate or interpretation thereof, the disclosure of which would result in significant competitive disadvantage or significant loss to the owner thereof shall not be disclosed except to a committee of Congress. Any such information so furnished to a committee of the Congress shall be deemed the property of such committee and may not be disclosed except in accordance with the rules of the committee and the rules of the House of Representatives or the Senate and as permitted by law.

(2) Any person who knowingly discloses information in violation of paragraph (1) shall be subject to the penalties specified in section 5(a)(3)(b) and (4) of the Emergency Petroleum Allocation Act of 1973, as amended by section 452 of this Act.

(f) The Comptroller General shall prepare and submit to the Congress an annual report with respect to the exercise of its authorities under this part, which report shall specifically identify any deficiencies in energy information or financial information reviewed by the Comptroller General and include a discussion of action taken by the person or company so examined, if any, to correct any such deficiencies.

ACCOUNTING PRACTICES

SEC. 503. (a) For purposes of developing a reliable energy data base related to the production of crude oil and natural gas, the Securities and Exchange Commission shall take such steps as may be necessary to assure the development and observance of accounting practices to be followed in the preparation of accounts by persons engaged, in whole or in part, in the production of crude oil or natural gas in the United States. Such practices shall be developed not later than 24 months after the date of enactment of this Act and shall take effect with respect to the fiscal year of each such person which begins 3 months after the date on which such practices are prescribed or made effective under authority of subsection (b)(2).

(b) In carrying out its responsibilities under subsecton (a), the Securities and Exchange Commission shall—

(1) consult with the Federal Energy Administration, the General Accounting Office, and the Federal Power Commission with respect to accounting practices to be developed under subsection (a), and

(2) have authority to prescribe rules applicable to persons engaged in the production of crude oil or natural gas, or make effective by recognition, or by other appropriate means indicating a determination to rely on, accounting practices developed by the Financial Accounting Standards Board, if the Securities and Exchange Commission is assured that such practice will be observed by persons engaged in the production of crude oil or natural gas to the same extent as would result if the Securities and Exchange Commission had prescribed such practices by rule.

The Securities and Exchange Commission shall afford interested persons an opportunity to submit written comment with respect to whether it should exercise its discretion to recognize or otherwise rely on such accounting practice in lieu of prescribing such practices by rule and may extend the 24-month period referred to in subsection (a) as it determines may be necessary to allow for a meaningful comment period with respect to such determination.

(c) The Securities and Exchange Commission shall assure that accounting practices developed pursuant to this section, to the greatest extent practicable, permit the compilation, treating domestic and foreign

operations as separate categories, of an energy data base consisting of:

(1) The separate calculation of capital, revenue, and operating cost information pertaining to—

(A) prospecting,
(B) acquisition,
(C) exploration,
(D) development, and
(E) production,

including geological and geophysical costs, carrying costs, unsuccessful exploratory drilling costs, intangible drilling and development costs on productive wells, the cost of unsuccessful development wells, and the cost of acquiring oil and gas reserves by means other than development. Any such calculation shall take into account disposition of capitalized costs, contractual arrangements involving special conveyance of rights and joint operations, differences between book and tax income, and prices used in the transfer of products or other assets from one person to any other person, including a person controlled by controlling or under common control with such person.

(2) The full presentation of the financial information of persons engaged in the production of crude oil or natural gas, including—

(A) disclosure of reserves and operating activities, both domestic and foreign, to facilitate evaluation of financial effort and result; and

(B) classification of financial information by function to facilitate correlation with reserve and operating statistics, both domestic and foreign.

(3) Such other information, projection, and relationships of collected data as shall be necessary to facilitate the compilation of such data base.

ENFORCEMENT

SEC. 504. (a) Any person who violates any general or special order of the Comptroller General issued under section 502(a)(1)(B) of this Act may be assessed a civil penalty not to exceed $10,000 for each violation. Each day of failure to comply with such an order shall be deemed a separate violation. Such penalty shall be assessed by the Comptroller General and collected in a civil action brought by the Comptroller General through any attorney employed by the General Accounting Office or any other attorney designated by the Comptroller General, or, upon request of the Comptroller General, the Attorney General. A person shall not be liable with respect to any period during which the effectiveness of the order with respect to such person was stayed.

(b) Any action to enjoin or set aside an order issued under section 502(a)(1)(B) may be brought only before the United States Court of Appeals for the District of Columbia. Any action to collect a civil penalty for violation of any general or special order may be brought only in the United States District Court for the District of Columbia. In any action brought under subsection (a) to collect a civil penalty, process may be served in any judicial district of the United States.

(c) Upon petition by the Comptroller General through any attorney employed by the General Accounting Office or designated by the Comptroller General, or, upon request of the Comptroller General, the Attorney General, any United States district court within the jurisdiction of which any inquiry under this part is carried on may, in the case of refusal to obey a subpena of the Comptroller General issued under this part, issue an order requiring compliance therewith; and any failure to obey the order of the court may be treated by the court as a contempt thereof.

AMENDMENT TO ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT OF 1974

SEC. 505. (a) Section 11(c) of The Energy Supply and Environmental Coordination Act of 1974 is amended by adding at the end thereof the following:

"(3) In order to carry out his responsibilities under subsection (a) of this section, the Federal Energy Administrator shall require, pursuant to subsection (b)(1)(A) of this section, that persons engaged, in whole or in part, in the production of crude oil or natural gas—

"(A) keep energy information in accordance with the accounting practices developed pursuant to section 503 of the Energy Policy and Conservation Act, and

"(B) submit reports with respect to energy information kept in accordance with such practices.

The Administrator shall file quarterly reports with the President and the Congress compiled from accounts kept in accordance with such section 503 and submitted to the Administrator in accordance with this paragraph. Such reports shall present energy information in the categories specified in subsection (c) of such section 503 to the extent that such information may be compiled from such accounts. Such energy information shall be collected and such quarterly reports made for each calendar quarter which begin 6 months after the date on which the accounting practices developed pursuant to such section 503 are made effective.".

(b) The amendment made by subsection (a) to section 11(c) of the Energy Supply and Environmental Coordination Act of 1974 shall take effect on the first day of the first accounting quarter to which such practices apply.

EXTENSION OF ENERGY INFORMATION GATHERING AUTHORITY

SEC. 506. Section 11(g)(2) of the Energy Supply and Environmental Coordination Act of 1974 is amended by striking out "June 30, 1975" wherever it appears and inserting in lieu thereof "December 31, 1979".

PART B—GENERAL PROVISIONS

PROHIBITION ON CERTAIN ACTIONS

SEC. 521. (a) Action taken under the authorities to which this section applies, resulting in the allocation of petroleum products or electrical energy among classes of users or resulting in restrictions on use of petroleum products and electrical energy shall not be based upon unreasonable classifications of, or unreasonable differentiations between, classes of users. In making any such allocation the President, or any agency of the United States to which such authority is delegated, shall give consideration to the need to foster reciprocal and nondiscriminatory treatment by foreign countries of United States citizens engaged in commerce in those countries.

(b) To the maximum extent practicable, any restriction under authorities to which this section applies 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 class of industry, business, or commercial enterprise, or on any individual segment thereof. In prescribing any such restriction, due consideration shall be given to the needs of commercial, retail, and service establishments whose normal function is to supply goods or services of an essential convenience nature during times of day other than conventional daytime working hours.

(c) This section applies to actions under any of the following authorities:

(1) titles I and II of this Act (other than any provision of such titles which amend another law).

(2) this title.

(3) the Emergency Petroleum Allocation Act of 1973.

CONFLICTS OF INTEREST

SEC. 522. (a) Each officer or employee of the Federal Energy Administration or of the Department of the Interior who—

(1) performs any function or duty under this Act; and

(2) has any known financial interest—

(A) in any person engaged in the business of exploring, developing, producing, refining, transporting by pipeline, or distributing (other than at the retail level) coal, natural gas, or petroleum products, or

(B) in property from which coal, natural gas, or crude oil is commercially produced;

shall, beginning on February 1, 1977, annually file with the Administrator or the Secretary of the Interior, as the case may be, a written statement disclosing all such interests held by such officer or employee during the preceding calendar year. Such statement shall be subject to examination, and available for copying, by the public upon request.

(b) The Administrator and the Secretary of the Interior shall each—

(1) act, within 90 days after the date of enactment of this Act, in accordance with section 553 of title 5, United States Code—

(A) to define the term "known financial interest" for purposes of subsection (a); and

(B) to establish the methods by which the requirement to file written statements specified in subsection (a) will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Administrator or the Secretary of the Interior, as the case may be, of such statements; and

(2) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

(c) In the rules prescribed in subsection (b), the Administrator and the Secretary of the Interior each may identify specific positions or classes thereof within the Federal Energy Administration or Department of the Interior, as the case may be, which are of a nonregulatory and nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

(d) Any officer or employee who is subject to, and knowingly violates, subsection (a) shall be fined not more than $2,500 or imprisoned not more than one year, or both.

ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

SEC. 523. (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, regulation, or order having the applicability and effect of a rule as defined in section 551(4) of title 5, United States Code, issued under title I (other than section 103 thereof) and title II of this Act, or this title (other than any provision of such titles which amends another law).

(2)(A) Notice of any proposed rule, regulation, or order described in paragraph (1) which is substantive and of general applicability shall be given by publication of such proposed rule, regulation, or order in the Federal Register. In each case, a minimum of 30 days following the date of such publication and prior to the effective date of the rule shall be provided for opportunity to comment; except that the 30-day period for opportunity to comment prior to the effective date of the rule may be—

(i) reduced to no less than 10 days if the President finds that strict compliance would seriously impair the operation of the program to which such rule, regulation, or order relates and such findings are set out in such rule, regulation, or order, or

(ii) waive entirely, if the President finds that such waiver is necessary to act expeditiously during an emergency affecting the national security of the United States.

(B) Public notice of any rule, regulation, or order which is substantive and of general applicability which is promulgated by officers of a State or political subdivision thereof or to State or local boards which have been delegated authority pursuant to title I or II of this Act or this title (other than any provision of such title) which amend another law shall, to the maximum extent practicable, be achieved by publication of such rules, regulations, or orders in a sufficient number of newspapers of general circulation calculated to receive widest practicable notice.

(3) In addition to the requirements of paragraph (2) and to the maximum extent practicable, an opportunity for oral presentation of data, views, and arguments shall be afforded and such opportunity shall be afforded prior to the effective date of such rule, regulation, or order, but in all cases such opportunity shall be afforded no later than 45 days, and no later than 10 days (in the case of a waiver of the entire comment period under paragraph (2)(ii)), after such date. A transcript shall be made of any oral presentation.

(4) Any officer or agency authorized to issue rules, regulations, or orders described in paragraph (1) shall provide for the making of such adjustments, consistent with the other purposes of this Act 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, regulations, 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) or other applicable law when such denial becomes final. The officer or agency shall, by rule, establish appropriate procedures, including a hearing where deemed advisable, for considering such request for action under this paragraph.

(b) The procedures for judicial review established by section 211 of the Economic Stabilization Act of 1970 shall apply to proceedings to which subsection (a) applies, as if such proceedings took place under such Act. Such procedures for judicial review shall apply notwithstanding the expiration of the Economic Stabilization Act of 1970.

(c) Any agency authorized to issue any rule, regulation, or order described in subsection (a)(1) shall, upon written request of any person, which request is filed after any grant or denial of a request for exception or exemption from any such rule, regulation, or order, furnish such person, within 30 days after the date on which such request is filed, with a written opinion setting forth applicable facts and the legal basis in support of such grant or denial.

PROHIBITED ACTS

SEC. 524. It shall be unlawful for any person—

(1) to violate any provision of title I or title II of this Act or this title (other than any provision of such titles which amend another law),

(2) to violate any rule, regulation, or order issued pursuant to any such provision or any provision of section 383 of this Act; or

(3) to fail to comply with any provision prescribed in, or pursuant to, an energy conservation contingency plan which is in effect.

ENFORCEMENT

SEC. 525. (a) Whoever violates section 524 shall be subject to a civil penalty of not more than $5,000 for each violation.

(b) Whoever willfully violates section 524 shall be fined not more than $10,000 for each violation.

(c) Any person who knowingly and willfully violates section 524 with respect to the sale, offer of sale, or distribution in commerce of a product or commodity after having been subjected to a civil penalty for a prior violation of section 524 with respect to the sale, offer of sale, or distribution in commerce of such product or commodity shall be fined not more than $50,000 or imprisoned not more than 6 months, or both.

(d) Whenever it appears to any officer or agency of the United States in whom is vested, or to whom is delegated, authority under this Act that any person has engaged, is engaged, or is about to engage in acts or practices constituting a violation of section 524, such officer or agency may request the Attorney General to bring an action in an 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 any ruler, regulation, or order described in section 524.

(e)(1) Any person suffering legal wrong because of any act or practice arising out of any violation of any provision of this Act described in paragraph (2), may bring an action in an appropriate 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.

(2) The provisions of this Act referred to in paragraph (1) are as follows:

(A) Section 202 (relating to energy conservation plans).

(B) Section 251 (relating to international oil allocation).

(C) Section 252 (relating to international voluntary agreements).

(D) Section 253 (relating to advisory committees).

(E) Section 254 (relating to international exchange of information).

(F) Section 521 (relating to prohibition on certain actions).

EFFECT ON OTHER LAWS

SEC. 526. 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 title I or II of this Act (other than any provision of such title which amends another law) or any rule, regulation, or order thereunder, except insofar as such State law or State program is in conflict with such provision, rule, regulation, or order.

TRANSFER OF AUTHORITY

SEC. 527. In accordance with section 15(a) of the Federal Energy Administration Act of 1974, the President shall designate, where applicable and not otherwise provided by law, an appropriate Federal agency to carry out functions vested in the Administrator under this Act and amendments made thereby after the termination of the Federal Energy Administration.

AUTHORIZATION OF APPROPRIATIONS FOR INTERIM PERIOD

SEC. 528. Any authorization of appropriations in this Act, or in any amendment to any other law made by this Act, for the fiscal year 1976 shall be deemed to include an additional authorization of appropriations for the period beginning July 1, 1976, and ending September 30, 1976, in amounts which equal one-fourth of any amount authorized for fiscal year 1976, unless appropriations for the same purpose are specifically authorized in a law hereinafter enacted.

INTRASTATE NATURAL GAS

SEC. 529. No provision of this Act shall permit the imposition of any price controls on, or require any allocation of, natural gas not subject to the jurisdiction of the Federal Power Commission.

LIMITATION ON LOAN GUARANTEES

SEC. 530. Loan guarantees and obligation guarantees under this Act or any amendment to another law made by this Act may not be issued in violation of any limitation in appropriations or other Acts, with respect to the amounts of outstanding obligational authority.

EXPIRATION

SEC. 531. Except as otherwise provided in title I or title II, all authority under any provision of title I or title II (other than a provision of either such title amending another law) and any rule, regulation, or order issued pursuant to such authority, shall expire at midnight, June 30, 1985, 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, June 30, 1985.

PART C—CONGRESSIONAL REVIEW

PROCEDURE FOR CONGRESSIONAL REVIEW OF PRESIDENTIAL REQUESTS TO IMPLEMENT CERTAIN AUTHORITIES

SEC. 551. (a) For purposes of this section, the term "energy action" means any matter required to be transmitted or submitted to the Congress in accordance with the procedures of this section.

(b) The President shall transmit any energy action (bearing an identification number) to both Houses of Congress on the same day. If both Houses are not in session on the day any energy action is received by the appropriate officers of each House, for purposes of this section such energy action shall be deemed to have been transmitted on the first succeeding day on which both Houses are in session.

(c)(1) Except as provided in paragraph (2) of this subsection, if energy action is transmitted to the Houses of Congress, 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 action is transmitted to such Houses, unless between the date of transmittal and the end of such 15-day period, either House passes a resolution stating in substance that such House does not favor such action.

(2) An energy action described in paragraph (1) may take effect prior to the expiration of the 15-calendar-day period after the date on which such action is transmitted, if each House of Congress approves a resolution affirmatively stating in substance that such House does not object to such action.

(d) For the purpose of subsection (c) of this section—

(1) continuity of session is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 15-calendar-day period.

(e) Under provisions contained in an energy action, a provision of such an action may take effect on a date later than the date on which such action otherwise takes effect pursuant to the provisions of this section.

(f)(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 the 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 the House.

(2) For purposes of this subsection, the term "resolution" means only a resolution of either House of Congress described in subparagraph (A) or (B) of this paragraph.

(A) A resolution the matter after the resolving clause of which is as follows: "That the _____ does not object to the energy action numbered _____ submitted to the Congress on _____, 19 .", the first blank space therein being filled with the name of the resolving House and the other blank spaces being appropriately filled; but does not include a resolution which specifies more than one energy action.

(B) A resolution the matter after the resolving clause of which is as follows: "That the _____ does not favor the energy action numbered _____ transmitted to Congress 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 action.

(3) A resolution once introduced with respect to an energy action shall immediately 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 action has been referred has not reported it at the end of 5 calendar days after its referral, it shall be in order to move either to discharge the committee from further consideration of such resolution or to discharge the committee from further consideration of any other resolution with respect to such energy action which has been referred to the committee.

(B) A motion to discharge may be made only by an individual favoring the resolution shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same energy action), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was 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 energy action.

(5) (A) When the committee has reported, or has been discharged from further consideration of, a resolution, it shall be 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 shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) Debate on the resolution referred to in subparagraph (A) of this paragraph shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit, the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to; except that it shall be in order—

(i) to offer an amendment in the nature of a substitute, consisting of the text of a resolution described in paragraph (2) (A) of this subsection with respect to an energy action, for a resolution described in paragraph (2) (B) of this subsection with respect to the same such action, or

(ii) to offer an amendment in the nature of a substitute, consisting of the text of a resolution described in paragraph (2) (B) of this subsection with respect to an energy action, for a resolution described in paragraph (2) (A) of this subsection with respect to the same such action.

The amendments described in clauses (i) and (ii) of this subparagraph shall not be amendable.

(6) (A) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution and motions to proceed to the consideration of other business, shall be decided without debate.

(B) Appeals from the decision 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 shall be decided without debate.

(7) Notwithstanding any of the provisions of this subsection, if a House has approved a resolution with respect to an energy action, then it shall not be in order to consider in that House any other resolution with respect to the same such action.

EXPEDITED PROCEDURE FOR CONGRESSIONAL CONSIDERATION OF CERTAIN AUTHORITIES

SEC. 552. (a) Any contingency plan transmitted to the Congress pursuant to section 201(a)(1) shall bear an identification number and shall be transmitted to both Houses of Congress on the same day and to each House while it is in session.

(b) No such contingency plan may be considered approved for purposes of section 201(a)(2) of this Act unless between the date of transmittal and the end of the first period of 60 calendar days of continuous session of Congress after the date on which such action is transmitted to such House, each House of Congress passes a resolution described in subsection (d)(2).

(c) For the purpose of subsection (b) of this section—

(1) continuity of session is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 60-calendar-day period.

(d) (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 the House.

(2) For purposes of this subsection, the term "resolution" means only a resolution of either House of Congress the matter after the resolving clauses of which is as follows: "That the _____ approves the contingency plan numbered _____ submitted to the Congress on _____, 19 .", the first blank space therein being filled with the name of the resolving House and the other blank spaces being appropriately filled; but does not include a resolution which specifies more than one contingency plan.

(3) a resolution once introduced with respect to a contingency plan shall immediately be referred to a committee (and all resolutions with respect to the same contingency 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 a contingency plan has been referred has not reported it at the end of 20 calendar days after its referral, it shall be in order to move either to discharge the committee from further consideration of such resolution or to discharge the committee from further consideration of any other resolution with respect to such contingency plan which has been referred to the committee.

(B) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same contingency 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 shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was 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 contingency plan.

(5) (A) When the committee has reported, or has been discharged from further consideration of, a resolution, it shall be 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 shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) Debate on the resolution referred to in subparagraph (A) of this paragraph shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to.

(6) (A) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution and motions to proceed to the consideration of other business, shall be decided without debate.

(B) Appeals from the decision 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 procedures relating to a resolution shall be decided without debate.

Mr. STAGGERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to

the request of the gentleman from West Virginia?

Mr. BROWN of Ohio. Mr. Speaker, I reserve the right to object.

Mr. GOLDWATER. Mr. Speaker, I reserve the right to object.

Mr. ANDERSON of Illinois. Mr. Speaker, I reserve the right to object.

Mr. STAGGERS. Mr. Speaker, I would like to explain that what we are referring to is on page 8, commencing with article 4, down to the small "d," which the gentleman from Illinios had objected to, and that has been deleted from the amendment.

Mr. ANDERSON of Illinois. Mr. Speaker, reserving the right to object, as the gentleman knows, I was prepared to offer a point of order to section 102 of the bill on the grounds it violates clause 3 of rule XXVIII, in that as the conference report came back from the House it contained a proposition which was not committed to the conference committee. That objection was based on the fact that H.R. 7014, the House bill in the section dealing with incentives to developing underground coal mines, limited it to a $750 million total program to new coal mines.

On page 8 of the conference report in subparagraph (2) (c) (4) is contained the language:

> The term "developing new underground coal mines" includes expansion of existing underground coal mines.

Mr. Speaker, existing mines are clearly not the same thing as new mines.

Do I understand that the motion which the gentleman from West Virginia has now sent to the desk would eliminate from the definition of coal mines as contained on page 8 of the conference report that the definition of developing new underground coal mines no longer includes the words, "includes expansion of existing underground coal mines"; has that language, by the gentleman's amendment, been removed from the conference report?

Mr. STAGGERS. Mr. Speaker, it has been removed; but the rest of the definition, I will state again that on page 8, the section marked (4) has been deleted down through the small "d," deleted completely, the whole of the section.

Mr. ANDERSON of Illinois. Mr. Speaker, if the gentleman will yield further, the gentleman is eliminating all of subparagraph (4)?

Mr. STAGGERS. Down to the small "d"; that is correct.

Mr. ANDERSON of Illinois. Mr. Speaker, will the gentleman yield further?

Mr. STAGGERS. I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. Mr. Speaker, let me ask the gentleman one additional question. When this bill was before the House previously, any of the loan guarantees provided for under this particular section provided that no more than 40 percent of a loan going to the operator of a non-low-sulfur mine would be guaranteed. This was for the obvious purpose of providing an incentive to the development of low-sulfur coal mines.

Now as the conference report comes back to us, I find that particular requirement or restriction has been removed. As I read the conference report, there is no provision limiting these loan guarantees to 40 percent of any loan extended to the operator of a non-low-sulfur coal mine.

Mr. Speaker, I wonder if the gentleman would enlighten us on that point, why that was done?

Mr. STAGGERS. Well, as the gentleman knows, having been here a long time in the House, that in going to conference we do not get everything we want.

We were trying to compromise, and we said that 80 percent of this would have to go to low-sulfur coal.

Mr. ANDERSON of Illinois. Ordinarily, I would be prepared to accept the gentleman's explanation. The bill S. 622 had no such provision. There was nothing in the Senate bill comparable to the loan guarantee situation in the House-passed bill. Therefore, I find it really strange that the House would back down on its own provision, and note our consideration that these loans be primarily provided to people who were going to open up new non- or low-sulfur mines, and the gentleman is now eliminating this restriction.

Mr. STAGGERS. I would say that as the gentleman knows, having had many years experience in conferences, that the conference had this point here on our side and said nothing in the Senate bill. That was not in our bill. We put in what we thought would make a better bill, and this was done because of the fact that we did have the conference with the Senate and came up with a conference report.

Mr. ANDERSON of Illinois. With the clear understanding from the gentleman from West Virginia that the provision of the conference report has now been amended to insure that these loan guarantees will not go to the owners or the operators of existing mines, I will not raise a point of order which I think otherwise would have been sustained.

Mr. STAGGERS. I thank the gentleman from Illinois.

PARLIAMENTARY INQUIRY

Mr. BROWN of Ohio. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BROWN of Ohio. Mr. Speaker, I rise to inquire about the parliamentary status with reference to this amendment. Presuming the amendment offered by the gentleman from West Virginia is in order before the House and is not objected to under the unanimous consent reservation, is it then in order that the amendment would be voted on immediately? Would there be time to debate that amendment?

The SPEAKER. It would be subject to debate.

Mr. BROWN of Ohio. Subject to debate under what time limitation?

The SPEAKER. One-hour rule.

Mr. BROWN of Ohio. Mr. Speaker, assuming that it then is approved, at that point does the House then go into consideration of the conference report, as amended, or does that infer approval of the conference report at that point?

The SPEAKER. The conference report has been rejected by the action on the Goldwater motion pursuant to clause 4(d), rule XXVIII.

Mr. BROWN of Ohio. Mr. Speaker, I am not sure that I understand the answer to my question. Once more, the question is that, if the motion of the gentleman from West Virginia is not objected to and is open to debate for 1 hour——

The SPEAKER. Adoption of the motion to strike rejected the conference report, the pending motion is to recede and concur with an amendment.

Mr. BROWN of Ohio. And that would be a vote on the whole conference report?

The SPEAKER. Minus the parts that were stricken.

Mr. BROWN of Ohio. In other words, it would be a vote on the whole conference report except that which is taken out by the amendment of the gentleman from West Virginia, is that correct?

The SPEAKER. By the motion of the gentleman from California and the additional deletion from page 8 contained in the motion of the gentleman from West Virginia.

Mr. BROWN of Ohio. And the action we have already taken?

The SPEAKER. That is right.

Mr. BROWN of Ohio. But there would be no further debate on the conference report after we complete the debate on this motion; is that correct?

The SPEAKER. The gentleman has stated it properly.

Mr. BROWN of Ohio. So there would be no further debate after the 1 hour on this particular motion, which would embrace the debate on the whole conference report, because I assume if anyone wants to raise a question on the rest of the conference report, he may?

The SPEAKER. That is true on the merits, during 1 hour of debate on the motion.

Mr. BROWN of Ohio. Is that correct?

The SPEAKER. The gentleman from Ohio is a very bright man. He understands.

Mr. BROWN of Ohio. I just want to be sure I understand and that everybody else understands it, Mr. Speaker.

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, I would like to ask a question of my colleague from Illinois. Is my understanding correct if his point of order is sustained and all language on page 7 of the conference report under the title incentives to develop underground coal mines, over to the last line of page 8 supposedly will be stricken. Is that essentially correct?

Mr. ANDERSON of Illinois. If the Chair had sustained a point of order to the entire section, the gentleman is correct. However, the point of order was based on subparagraph 4 on page 8. It has been expanded to cover existing as well as new mines, which I think went beyond the scope of the conference.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, will the gentleman explain then what the difference between his point of order, had it been sustained and that of the motion of Mr. STAGGERS even though we do not have the language of the so-called compromise position of the gentleman from West Virginia?

Mr. ANDERSON of Illinois. If the gentleman will yield further, I think what we have done, by virtue of the amendment offered by the gentleman from West Virginia—assuming that the amendment is adopted—is to insure that the incentives provided for under this section 102 will extend only to owners and operators of new coal mines, not to operators of existing mines.

Mr. ROUSSELOT. Further reserving the right to object, if the gentleman's point of order had been sustained, can the gentleman explain to us from the conference report what portions would have been stricken?

Mr. ANDERSON of Illinois. I believe probably the section I referred to, the language which appears on page 8, which I will quote:

The term "developing new underground coal mines" includes expansion of existing underground coal mines and the reopening of underground coal mines which had previously been closed.

Mr. ROUSSELOT. Further reserving the right to object, would that be all of section 102?

Mr. ANDERSON of Illinois. When that language is stricken we are left merely with the language that appears elsewhere in the section called "new mines."

Mr. ROUSSELOT. All of the language on page 7, down to (4) on page 8?

Mr. ANDERSON of Illinois. Yes.

Mr. ROUSSELOT. All of that would have been stricken. Is the gentleman satisfied that this so-called compromise amendment really totally achieves what he intended to achieve by his point or order?

Mr. ANDERSON of Illinois. If the gentleman will yield further, no, it does not; because I think, as I indicated earlier in the colloquy I had with the gentleman from California (Mr. BROWN), I cannot quite understand why a loan guarantee program is bad on Thursday and suddenly a $750 million loan guarantee program becomes all right in this bill on Monday. I am not satisfied with the program, but I could not find, I do not think, under the rules any basis for striking the entire section.

Mr. ROUSSELOT. Does the gentleman then intend to object?

Mr. ANDERSON of Illinois. I have agreed with the gentleman from West Virginia that I would not object if he offered language that would remove from the purview of this section existing mines.

Mr. BROWN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, I will yield to the gentleman from Ohio (Mr. BROWN).

PARLIAMENTARY INQUIRY

Mr. BROWN of Ohio. Mr. Speaker, I have asked the gentleman to yield to further establish the parliamentary situation which exists at this moment.

Mr. Speaker, I would like to elaborate on the parliamentary situation and then to propound a question.

As I understand, under the unanimous-consent request of the gentleman from West Virginia, he has an amendment to the conference report which would then become the issue which gives us 1 hour of debate on the conference report. If we adopt the amendment, then we send the conference report, as amended, to the Senate, without in effect ever having voted on the conference report. If the Senate accepts it at that point, then the conference report is completed. But I would ask the Chair what happens if there is an objection at this point? Does that mean that the conference report debate that is up at this time would proceed without the amendment offered by the gentleman from West Virginia, but with the amendment offered by the gentleman from California (Mr. GOLDWATER)?

The SPEAKER. Would the gentleman bear with the Chair?

Mr. BROWN of Ohio. I would, Mr. Speaker.

The SPEAKER. A request has been made to dispense with reading of the motion. The gentleman from West Virginia has offered a motion. Is there anything difficult about that?

Mr. BROWN of Ohio. Mr. Speaker, the question I am propounding under the reservation of the gentleman from California (Mr. ROUSSELOT) is this: What occurs if there is a rejection of the request of the gentleman from West Virginia (Mr. STAGGERS)?

The SPEAKER. The Clerk will continue to read the motion.

Mr. BROWN of Ohio. Mr. Speaker, the motion will be read, and then we will continue with the consideration of the conference report?

The SPEAKER. The House will consider the motion, the conference report has been rejected.

Mr. WAGGONNER. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. Further reserving the right to object, Mr. Speaker, I yield to my colleague, the gentleman from Louisiana.

PARLIAMENTARY INQUIRIES

Mr. WAGGONNER. Mr. Speaker, let us try to clear up the parliamentary situation here, and let us try to do it on a step-by-step basis to see if we can gain an understanding of where we are.

Mr. Speaker, am I correct in saying that by voting up the Goldwater motion, the net effect is that the House has now rejected the conference report?

The SPEAKER. The gentleman is correct.

Mr. WAGGONNER. Mr. Speaker, am I further correct in saying that if there is no objection to the motion under a reservation of objection or otherwise, offered by the gentleman from West Virginia (Mr. STAGGERS), there will be provided 1 hour of debate, 30 minutes for and 30 minutes against, on his motion, which has the net effect of striking from section 102 that language which makes in order or authorizes loan guarantees for development of existing coal mines?

The SPEAKER. The gentleman is partially correct.

Mr. WAGGONNER. Mr. Speaker, am I further correct in saying that if there is no objection and we do debate that issue and that motion is agreed to, then the situation would have developed wherein, if that motion is agreed to, the conference would then be reconvened and the Senate would have the option of accepting the action of the House or not accepting it?

The SPEAKER. No. Would the gentleman bear with the Chair for a moment?

All the House can do now is to send an amendment back to the Senate. The Senate can either ask for a new conference or it can accept the amendment as presented to the Senate by the House.

Mr. WAGGONNER. But the point I am making, Mr. Speaker, if the gentleman from California (Mr. ROUSSELOT) will yield further under his reservation to allow me to continue my parliamentary inquiry, is that the House does not have to debate this motion. The House can reject this motion, object to it, and move then to strike that portion of the bill, as we have already done under the Goldwater motion striking part B of title V, and then the bill would be less those provisions or that portion of the bill which we identify as section 102; is that correct?

The SPEAKER. The Chair will state that the gentleman from West Virginia (Mr. STAGGERS) has offered a motion which is pending. The only other thing that has occurred is that a unanimous-consent request was offered to dispense with the reading of the motion.

Mr. WAGGONNER. Mr. Speaker, will the gentleman from California yield further under his reservation of objection?

Mr. ROUSSELOT. Further reserving the right to object, Mr. Speaker, I yield to my colleague, the gentleman from Louisiana.

Mr. WAGGONNER. Then, Mr. Speaker, if this motion is objected to, the bill will be returned to the Senate?

The SPEAKER. No. There can be no simple objection to a privileged motion.

Mr. WAGGONNER. What I mean to say, Mr. Speaker, is if there is an objection to the request on the reading of it and if then there is further objection, the bill would go back to the Senate and would be subject to another point of order with respect to section 102, when returned, if it is returned with section 102 intact?

Mr. BROWN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. Mr. Speaker, I yield to my colleague, the gentleman from Ohio.

Mr. WAGGONNER. Mr. Speaker, I wish the gentleman would allow the Speaker to answer this question first.

The SPEAKER. The Chair cannot anticipate the action of the Senate.

Mr. ROUSSELOT. Mr. Speaker, did the gentleman get a satisfactory answer from the Speaker?

Mr. WAGGONNER. I am not sure I heard the answer.

The SPEAKER. Neither the Chair nor the House can anticipate the action of the Senate.

Mr. BROWN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, I yield to my colleague, the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Speaker, I have asked the gentleman to yield so that I may make this parliamentary inquiry:

Should the gentleman from California (Mr. ROUSSELOT), who is now maintaining a reservation of objection, formally object, would it then be in order for the gentleman from Illinois (Mr. ANDERSON) to make a point of order against the language presently in the conference report which is under consideration on the motion offered by the gentleman from West Virginia (Mr. STAGGERS) on the basis of scope?

The SPEAKER. It would not be in order.

Mr. BROWN of Ohio. Mr. Speaker, is that not in order under any circumstances?

The SPEAKER. Not at this point, the report has been rejected.

Is there objection to the request of the gentleman from West Virginia?

Mr. ROUSSELOT. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

The Clerk will read the motion.

The Clerk proceeded to read the motion.

Mr. ANDERSON of Illinois (during the reading). Mr. Speaker, I make a point of order against section 102, and I would like to be heard.

The SPEAKER. The motion has not been read.

The Clerk will read the motion.

The Clerk proceeded to read the motion.

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that further reading of the motion be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

Mr. BAUMAN. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

Mr. DINGELL (during the reading). Mr. Speaker, I ask unanimons consent that further reading on the motion offered by the gentleman from West Virginia (Mr. STAGGERS) be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

Mr. BROWN of Ohio. Mr. Speaker, I reserve the right to object.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, could we have another explanation on why the point of order that the gentleman from Illinois made could not be made at this point, could not be in order?

The SPEAKER. The Chair will state that the point of order raised by the gentleman from Illinois (Mr. ANDERSON) was to the conference report and the conference report is no longer before the House.

While, in fact, most of what the Clerk is reading is identical to the text of the conference report, it is still a motion as though it were taken out and typed up separately. The Clerk is now reading a motion. Whether we read the whole motion or whether we agree to dispense with the further reading of the motion will have nothing to do with the parliamentary situation topside or bottom.

Mr. ANDERSON of Illinois. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. Mr. Speaker, if the gentleman will yield further, as I understand and interpret the remarks as given by the Speaker, they are that once the motion offered by the gentleman from California (Mr. GOLDWATER) to reject certain language in the conference report was adopted, the conference report was gone. Therefore any point of order which I might otherwise have been entitled to make under rule XXVIII, clause 3, having to do with certain matters as being beyond the scope of the conference, was no longer in order. That is, as I understand, the ruling of the Chair.

The SPEAKER. The gentleman did not seek recognition at that time, and if, under the operation of clause 4(d), rule XXVIII, a conference report is rejected, no further points of order against the report are in order.

Mr. BROWN of Ohio. Mr. Speaker, after all of the discussion that has been going on here for the last hour or so, and in view of the fact that it appears that none of us are going to have an opportunity to have a clear-cut vote as to how we feel about this conference report, this would be an excellent time to pull this conference report for this evening.

The SPEAKER. May the Chair state that there will be a clear-cut vote on the motion.

Mr. MAHON. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. Mr. Speaker, further reserving the right to object, I yield to the distinguished Chairman of the Committee on Appropriations, the gentleman from Texas (Mr. MAHON).

Mr. MAHON. Then, if at any time, those of us who are opposed to the conference report will have an opportunity to discuss our position on it?

Mr. BROWN of Ohio. If I understand the situation—and I am not sure that I do—it is as follows: The issue we have before us is a conference report with the language stricken by the gentleman from California (Mr. GOLDWATER) and the language stricken that the Chairman of the Committee on Interstate and Foreign Commerce, the gentleman from West Virginia (Mr. STAGGERS) asked to have taken out of it. That is what we would vote on. We would vote on the question of whether or not in effect to take the language out of it that the gentleman from West Virginia (Mr. STAGGERS) wants taken out. But that also would be the vote on the conference report, so if we vote against taking that language out of it, we are also voting against the conference report.

Under his motion, as I understand from what I have been advised by the Parliamentarian and the Speaker, he would have half an hour for debate on the whole conference report, and I would have half an hour for debate on the whole conference report, as is the circumstance on a conference report generally. But the vote is obscured because we are really voting on the motion offered by the gentleman from West Virginia and not on the conference report.

If his motion is agreed to, then the conference report, absent the Goldwater amendment, absent the language that the gentleman from West Virginia wanted excluded, goes to the Senate. The Senate can adopt it, and that is the end of it. We will never have a vote on the conference report. That way we have lost our opportunity to express ourselves on the conference report.

Mr. MAHON. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Texas (Mr. MAHON).

Mr. MAHON. Then we would have an opportunity to be heard.

Mr. MOSS. Mr. Speaker, I object to the unanimous-consent request.

The SPEAKER. Objection is heard.

The Clerk will read.

The Clerk continued to read.

PARLIAMENTARY INQUIRY

Mr. BAUMAN. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BAUMAN. Would a point of order lie at this point against the portion of the motion, section 102, a point of order based on other grounds?

The SPEAKER. The Chair knows of no other grounds.

Mr. BAUMAN. The gentleman from Maryland suggests that section 102 is not in order because it is written in such a manner as to provide $50 million——

Mr. MOSS. Mr. Speaker, I insist upon regular order.

Mr. BAUMAN. The gentleman from Maryland is making a point of order.

Mr. MOSS. Mr. Speaker, I insist upon regular order. The reading of the motion is the order before the House at this moment.

The SPEAKER. The Chair will state to the gentleman that no point of order, whether there is one or is not, assuming there were one, would be in order until the motion is read.

Mr. BAUMAN. I thank the gentleman. I will wait for that.

PARLIAMENTARY INQUIRY

Mr. BROWN of Ohio. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BROWN of Ohio. Mr. Speaker, is the motion offered by the gentleman from West Virginia (Mr. STAGGERS) at this point amendable?

The SPEAKER. No.

Mr. BROWN of Ohio. Is it divisible?

The SPEAKER. The only way it could be amended is if it is read. After debate, the previous question is in order. If the previous question is voted down, then it is amendable.

Mr. BROWN of Ohio. And so the way for us to get out of this parliamentary difficulty is to vote down the previous question?

The SPEAKER. Let the House get the motion read first or dispense with the reading and then proceed from there.

PARLIAMENTARY INQUIRY

Mr. BROWN of Michigan. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MOSS. Mr. Speaker, regular order.

The SPEAKER. This is the regular order.

Mr. MOSS. Mr. Speaker, the regular order is the reading of the pending motion and it is the regular order and I insist upon the regular order.

The SPEAKER. The Chair would like for the sake of the entire House, if the gentleman will bear with the Chair, to hear a parliamentary inquiry.

The gentleman from California is correct. The regular order is the reading of the motion.

Mr. MOSS. Mr. Speaker, I am inclined not to be charitable. I insist upon the rules being applied, in this instance the reading of the motion pending.

The SPEAKER. The Clerk will read.

The Clerk proceeded to read the motion.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion and amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER. The gentleman from West Virginia (Mr. STAGGERS) will be recognized for 30 minutes, and the gentleman from Ohio (Mr. BROWN) will be recognized for 30 minutes.

PARLIAMENTARY INQUIRY

Mr. DINGELL. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. DINGELL. Mr. Speaker, as I understand the rules, the gentleman from West Virginia is recognized for 1 hour and the gentleman may yield 30 minutes for purposes of debate only to the minority, or 30 minutes for each side?

The SPEAKER. Thirty minutes to each side.

Mr. DINGELL. Thirty minutes to each side?

The SPEAKER. The gentleman from West Virginia has 30 minutes.

Mr. STAGGERS. Mr. Speaker, I yield 4 minutes to the gentleman from Louisiana (Mr. LONG) for purposes of debate only.

Mr. LONG of Louisiana. Mr. Speaker, when the House considered H.R. 7014, we passed an amendment I offered to guarantee a reasonable price for new and stripper oil produced by independent oil producers. In so doing, we recognized the independent oil producer as the most effective finder of new oil in the industry—that independents are the last vestiges of competition in the oil industry—and that independents rely heavily on the price they get for new and stripper oil for the necessary capital to continue meaningful exploration.

When the conferees completed their report my amendment was not included. Instead, we have the so-called "composite price" mechanism. I am terribly afraid that the independent producers—the segment of the oil industry which most needs price protection if it is to stay competitive—will be affected in a way that is contrary to what the conferees intended.

For example, I am concerned that the President will increase the old oil price without making any findings that could be challenged in court regarding the relative productivity of an old oil price increase versus keeping new oil prices at an incentive level. To do this would reduce the price the independents could get for their new and stripper oil and also reduce their capacity to compete effectively with the major oil companies. I also am concerned that the FEA's distribution of the annual upward incentive adjustments might be applied disproportionately to old oil prices. This would have the effect of diminishing the price for new oil which will be hit by such things as inflation, increases in the price of old oil which also reduce new oil prices, and the fact that over time the amount of new oil in the total composite formula's mix will increase thereby reducing the price of new oil. It is my understanding that the conferees' intention is that new oil must get a share of the upward adjustments and that the President will not let the prices of new and stripper oil bear the major part of the burden which the rollback in the bill compels.

Mr. Speaker, I would like to have the attention of the gentleman from Michigan (Mr. DINGELL), chairman of the Energy and Power Subcommittee, for a question as to the intent of the conferees. I would like to ask the gentleman from Michigan the following question:

As I read the report and the report says on page 191 that—

> The President must find that the departure from current controls (on old oil) is likely to result in greater production from such properties than would otherwise occur had the departure not been made.

Is it the committee's intent that in adjusting prices for old and new oil, FEA should consider not merely the immediate short-term impact of a higher old oil price on production, but also the long-term effect of maintaining the new oil price at incentive levels?

Mr. DINGELL. Mr. Speaker, if the gentleman will yield, in answer to the question posed by my colleague, the gentleman from Louisiana (Mr. LONG), I would quote further from the report:

> The President is granted broad authority to establish ceiling prices for classifications of domestic crude oil production if he finds that such classifications are administratively feasible and will optimize domestic production.

So clearly the committee contemplates that the President and the FEA will set prices in such a way as to secure the maximum amount of oil, not just in 1976, but in the other years encompassed by the bill.

Further, the committee provides that the annual production incentive adjustment is to encourage the development of high-cost, high-risk properties, including production by independent producers, and to encourage production from stripper wells, the majority of which are operated by independents.

In this regard I will note that the majority of new oil production and production from stripper leases is owned by independent producers. The conferees would expect affirmative price incentives designed to optimize production of this type would be incorporated into the price regulatory mechanism to be devised by the President.

Mr. LONG of Louisiana. I thank the gentleman.

Mr. SISK. Mr. Speaker, will the gentleman yield?

Mr. LONG of Louisiana. I yield to the gentleman from California (Mr. SISK).

Mr. SISK. Mr. Speaker, as the House moves to vote on the conference report on S. 622, I believe it of paramount importance to consider both the dynamics and the differentials which are underestimated and understated in the bill and in the conference report we are asked to support.

OIL PRODUCTION DYNAMICS

There is a predictable distortion built into a formula with a weighted fixed average. Let me explain how oil production dynamics will predictably thwart the dual interests sought by the legislation.

The bill before us hopes to continue sufficient incentive to keep a flow of new oil. There are two dynamic elements which will be barriers to such a result. Any student of oil production and all knowledgeable oil men know that there is a downward graph of production predictable in any down-stream field. If we accept this basic fact and correlate it with the broadly accepted calculation that at present "old oil" acounts for 60 percent of domestic production and "new oil" accounts for 40 of the production; then, without any further data, we can expect that the "old oil" will become less of a percentage as time goes on. Since the two-tier system gives a downward spread of from $5.25 for "old oil" to $11.28 for "new oil." As the "old oil" production goes down in total volume, the "new oil" will become a greater percentage of the composite and will have to be reduced in price to maintain the weighted average now set at $7.66.

For the same reason, the use of the "weighted average" will predictably discourage exploration for "new oil." The greater the increase in new production, the more the percentage in the composite will be at the $11.28 figure and the "new oil" price will tend to adjust downward to maintain the same weighted average.

A further consideration for discouragement of new exploration is the question mark left hanging relative to the Alaskan crude. This 2 to 3 million levels of "new oil" could have a very disturbing effect on the ratios. Although the conference leaves this consideration open, it does nothing to provide confidence for the substantial risk capital required for new development.

The other aspect of production dynamics is also fundamental and quite clear. The bill addresses a control of production price but in no way does it, nor can it address control of costs. It is true that the bill is written in a form to allow the President to request adjustments for inflation but normally the remedy always trails the problem and the national figures for inflation are large composites and fail to truly reflect specific items within a given economic sector.

Experience with economic controls hardly provides a basis for confidence or comfort in terms of a close tandem relation between control of price and control of costs.

OIL PRODUCTION DIFFERENTIALS

The differentials in oil production have to do with both the quality of crude and the specific difference in production. In California, for instance, most of the crude has a lower gravity which brings a lesser price from the refinery, but it also is more difficult to extract and therefore has a higher cost of production. This double load factor makes more critical the spread of price. The crossover point for economic feasibility is much closer.

This differential also affects the availability of borrowed capital and investment capital. The basic price used by banks and knowledgeable investors to evaluate projected reserves is near the so-called weighted average of $7.66, that is, recently $7.50. The operating borrower must service the debt, principal, and interest, meet all costs and satisfy his equity partners before he generates profit for expansion or gets a return on his own efforts. The operating company must accommodate costs of operations, price of materials, cost of delivery and profits. The picture for California heavy crude is very troublesome in terms of financing new fields under the proposed formulas. If the borrowing figure was $7.50 at $13 as a crude price it is likely to be near $6 at $11.28 crude price. The differentials for heavy crude, sulfur crude, and paraffin crudes are not adequately addressed in the current legislation.

The important, dynamic fact is that over 80 percent of domestic oil reserves are in problem crude deposits which require higher costs to lift, deliver, and process. The current legislation proposed will immediately discourage the efforts to add this crude to the present available store of domestic product. As we frustrate access to our own reserves, we automatically increase reliance on imported Arabian crude at OPEC prices. So the game is we offer our own oil economy less and give the foreign economies more. I fail to see the sense in this.

Mr. MACDONALD of Massachusetts. Mr. Speaker will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Massachusetts (Mr. MACDONALD).

Mr. MACDONALD of Massachusetts. Mr. Speaker, I would like to say that despite what has happened here tonight and what is happening, I still support the Energy Conservation and Oil Policy Act conference report.

Mr. Speaker, I rise in strong support of the Energy Conservation and Oil Policy Act conference report. As a conferee on S. 622, I know the amount of time and effort that went into creating this massive piece of legislation. The result was a genuine compromise—not all that I would have hoped for, nor all that the President wanted. But it is a workable and equitable solution that fairly meets the middle ground in this energy debate.

While most of the controversy surrounding this bill is centered on the oil pricing policy, I hope my colleagues will not forget that the bill establishes far-reaching and strict conservation measures. Committee staff have estimated that the conservation programs in S. 622 will reduce petroleum demand by more than 1 million barrels per day by 1980 and 2.7 million barrels per day by 1985. The greatest savings in energy will come from the automobile fuel efficiency standards. Compliance with these standards will result in a 100-percent improvement in fuel economy over 1974 industry wide gas mileage averages. Provisions in the bill requiring energy use labeling of appliances will give consumers full knowledge about the energy efficiency of the products they buy. Industry energy efficiency targets require a 20-percent improvement in energy consumption by the top consuming industries. State grants to implement State energy conservation programs will have a positive impact on localized energy efficiency targets. At the same time Federal agencies will be required to develop energy efficiency standards and conduct public education campaigns on the need for energy conservation. The energy-saving features of this bill represent the most extensive conservation measures ever passed through Congress. Additionally and most important, these measures represent a massive and cohesive national plan to better utilize our dwindling energy resources.

Other vital provisions in this bill include a huge 1 billion barrel strategic storage system which will reduce our vulnerability and especially New England to a future Arab embargo. The value of this cannot be underscored for not only will it lessen the impact of an embargo, it will in all likelihood prevent its use. This will give us an invaluable political safeguard and a crucial strategic leveraging position with the OPEC nations.

The coal loan guarantee provisions authorizing $750 million in Federal loan guarantees to small producers of clean coal will spur development of abundant energy resources. At the same time related provisions requiring conversion from natural gas and oil to coal will allow us to better utilize coal while conserving natural gas and oil.

As a result of this bill, the Nation will finally have the benefit of reliable energy information. Provisions in this bill extend FEA energy gathering authority and allow for verification audits of the energy industry by the GOA. In the past we have had to rely strictly on industry figures which gave us little confidence in price and supply projections.

Mr. Speaker, as we all know only too well by now, the meat and the controversy of this bill is the oil pricing policy. The conferees in adopting a $7.66 per barrel domestic composite price for crude oil, gave much needed certainty and stability to our oil pricing policy. The compromise price was adopted with the full realization that any pricing policy had to carefully balance industry production incentives against the possibility of economic disruption. I feel confident that we have done this in S. 622, and that contrary to industry outcries, this Nation will have more than adequate domestic supplies of oil at reasonable prices.

Industry objections to this section allege that the pricing section would reduce domestic oil production, increase demand, and thus raise our dependence on foreign oil. I hope that the industry is not threatening us with the production decreases. It seems very evident to me that this bill will increase production unless there is a conscious industry decision to the contrary. The $7.66 price will increase by up to 10 percent per year which will give proportionally larger increases to new oil if old oil remains stable. Two years ago industry and administration representatives indicated that a new oil price of $7.50 was sufficient to drill for new domestic sources. Present price regulations now allow new oil prices to reach "market levels" based on OPEC prices which are way above and have no relation to the costs of oil production. Now, when new oil prices are put into a more realistic realm the industry screams that it is not enough.

It cannot be denied that the industry is powerful enough to carry out its threats of reducing supplies. We have seen what they did in capping natural gas. The fact remains, however, that S. 622 sets a realistic price that will rise rapidly over a 40-month period. I am sure that under the screaming and the greed, the industry will live quite comfortably with S. 622.

The industry assertion that oil price decreases over the short term will increase oil consumption, are totally unfounded. Simple economics might indicate this to be true, but detailed observations of oil consumption patterns do not bear this out. Projections by prominent economists and even FEA officials show that the elasticity of demand of all oil products is very low. Oil consumption is just not responsive to changes in price, especially at the low levels that would result from the pricing policy roll back. And when you think about it closely this makes a lot of sense. Does a reduction from 60 cents per gallon to 58 cents per gallon mean that people will start a surge of demand for gasoline. And I know for a fact that a slight decrease in the price of home heating oil will not increase demand. People in the Northeast and elsewhere are already paying huge heating bills and a slight price drop will not cause them to push their thermostats up.

I think it should also be mentioned that any decrease in oil prices will not be caused by an oil price rollback. The main reason why oil prices will decrease will be a result of the removal of the $2 per barrel oil import tariff. This is the same tariff that has artificially increased oil prices since last January and has helped fuel inflation and unemployment. It has also been ruled illegal and should have been removed months ago.

Other analysis indicates that by 1977 the pricing formula adopted in the bill will decrease consumer prices by 1 percent and cut unemployment by 0.3 percent. The President's alternative to this bill is decontrol and the consequences of this have been well documented. Sud-

den decontrol would cost $20 billion, add 1.5 percent to consumer prices, and put 800,000 workers on the unemployment rolls. Thus, the President's plan is just not an economically sound alternative, especially now.

One last point I would like to mention is that I hope my colleagues are aware of the fact that the conferees were in continuous contact with the administration. All of the provisions of the bill, especially the oil pricing section, were worked out with the full knowledge and in many cases the demand of the administration. In fact, at the close of the conference we were assured by the President's chief energy advisors that S. 622 would be signed into law by the President. I can state as fact, and I know my colleagues on the conference will back me on this, that we would never have agreed to many of the compromising amendments if we had not had the assurance of a Presidential signature.

I am amazed now to hear that the President's decision to sign or not is on a "knife's edge"—a 50–50 chance many have said. This change of heart has come about because the President is being heavily pressured by the oil industry to veto this bill. I watch this with great interest and a good deal of disappointment. A Presidential veto would be a dangerous threat to the formulation of our energy policy. But perhaps even worse, a veto would completely shatter any confidence and trust Congress and the American people have in the administration. Congress and the administration can and will express their differences of opinion, but when a commitment is made it must be honored. The President expects no less of the Congress and we should expect no less from him now.

A Presidential veto would indicate to me that Mr. Ford has buckled under the pressure of a powerful and wealthy industry. I am hopeful that the President will not be swayed by their self-serving lobbying effort. The Nation needs this Energy Policy Act, and I hope my colleagues will lend their full support to this bill.

Mr. MAHON. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Texas.

Mr. MAHON. Mr. Speaker, I rise in support of the position just taken by the gentleman from Louisiana (Mr. LONG) with respect to oil exploration and production.

Mr. Speaker, in my judgment this bill would increase our dependence on foreign oil, guarantee a decrease in domestic exploration and production, and move us further away from the possibility of adequately meeting our energy problem. It will strike a damaging blow to the American consumer.

These words are not meant to be harsh, Mr. Speaker, and they are not intended as personal reflections on the Members who have worked under difficult circumstances.

But, Mr. Speaker, this bill represents a giant step in the wrong direction. It is wrong on many counts as has been amply documented in the debate.

Of course, it would be popular to roll back oil prices, especially before the election. But such a course of action can do little but harm our efforts to provide the energy the American consumer requires. I urge the defeat of the conference report.

Mr. DINGELL. Mr. Speaker, I have no further requests for time at this moment.

PARLIAMENTARY INQUIRY

Mr. BROWN of Ohio. Mr. Speaker, may I ask a parliamentary inquiry?

The SPEAKER. The gentleman yields to himself for a parliamentary inquiry.

The gentleman is recognized for 30 minutes.

Mr. BROWN of Ohio. Mr. Speaker, in order to get to a modification of what we have before us that might receive a majority vote on the floor of the House, is it required that we would divide the question and that the House vote to recede and then modify the amendment of the gentleman from West Virginia (Mr. STAGGERS)?

The SPEAKER. The way the gentleman can get at what he apparently is trying to get at is to vote down the previous question on the motion offered by the gentleman from West Virginia.

Mr. BROWN of Ohio. So that when the previous question on the motion of the gentleman from West Virginia is put, there should be a vote requested on that previous question so that we can vote down the previous question and then modify the amendment of the gentleman from West Virginia?

The SPEAKER. The Chair is not saying it should be done. The Chair is saying that that is the way to get done what the gentleman wants done.

Mr. BROWN of Ohio. The vehicle for modifying the motion of the gentleman from West Virginia, and if anyone wishes to modify, then, the conference report we have before us further before we send it back to the Senate and lose control of it, is to vote down the previous question?

The SPEAKER. I think that is a statement of fact instead of a parliamentary inquiry.

Mr. BROWN of Ohio. I thank the Chair.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, I am opposed to the passage of the conference report for two strong reasons. First, because it discourages efforts to seek alternatives to oil dominance in the energy field. Second, the scheme patently is doomed to failure and our country will loose valuable time in coming to a more rational and constructive answer.

By artificially suppressing the price of oil there is a diminished spectrum of competition from coal, nuclear, geothermal, or solar sources for energy. Already the Wall Street Journal has reported a gloomier prospect for investment in expansion of coal production. The cold hand of Government political control over economic factors by contrivances posed as consumer protection is really working against the consumer and the Nation in its need to develop long-term alternatives to oil. It suggests that the politicians are prepared to dry up all the private funds which might be directed to the problem of alternatives in energy and substitute public money controlled by bureaucratic criteria for future R. & D. Both the prospect of sufficient funds and the prospect for dynamic action are very poor under such a circumstance.

By contriving a mechanism which suppresses both price and production we get the worst of all possible worlds. An upward encouragement for consumption and a downward thrust for increased production. This is calculated to create pressures which when ultimately released will cause more economic dislocation and attending inflation than would be predicted if the opposite tack were taken where we used price to diminish use and to encourage production thus forcing a closer match of consumption and production.

Mexico, after years of subsidizing oil prices at the expense of killing capital for expansion of extraction, finally reversed about 1 year ago and recently announced Mexico may, next year, be oil sufficient where they had been net importers only 2 years before. If it did not work for Mexico, where tolerance for Socialistic answers to economic problems is high, how can this sort of scheme be expected to work in the United States.

The report should be recommitted to conference and, if passed, the legislation should be vetoed.

Mr. MILFORD. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Texas.

Mr. MILFORD. Mr. Speaker, the House should vote down the conference report and, if passed, the legislation it supports should be vetoed.

The political rhetoric which promises protection for consumers in a contrived control mechanism is doomed to an early failure. By structuring an abstract pricing mechanism the legislation assures a reduction in domestic production. The operative facts of demand dictate that any shortfall on today's scale of our own oil will have to be met by substituting imported oil not subject to the artificiality of political control. Very soon thereafter the international price of crude, according to the passthrough mechanism at refineries, will be reflected in the rising cost of products including gasoline, heating oil, and diesel fuel used by utility companies.

This bill is a bonanza for the OPEC countries, but a cruel hoax on consumers.

The one aspect of the bill which could give the conference committee pride is the fact that their weighted average pretty accurately reflects the existing reserve evaluations used by banks in financing small drilling companies. Their pricing structure threatens the small oil companies by squeezing out a chance for ploughed back profit but makes the banker safe on his loans.

Big oil is not harmed by this bill for most of their domestic production is old oil which in no way goes down in price under this bill and the remainder is offshore oil which is not affected by this bill. Besides, the major profits for big oil is in contracts to assist exploration and production in foreign countries and in

"arrangements" to market foreign crude. The other points of profit for big oil as against the small domestic operators are in refining and in distribution and sales of downstream products.

A bill for the giant oil companies is not the answer.

A bill for Arabs and bankers is not the answer for our oil fuel crisis.

A bill against consumer and small businessmen is not the answer.

This conference report should be defeated or the legislation should be vetoed.

Mr. GOLDWATER. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from California.

Mr. GOLDWATER. Mr. Speaker, section 104 of the conference report amends the Defense Production Act of 1950 and was not included in the House-passed bill. The matter is not germane to the jurisdiction of the Interstate and Foreign Commerce Committee and is properly a subject for the Committee on Banking, Currency and Housing.

SECTION 160

Section 160 includes storage of crude oil produced from the naval petroleum reserves, and is not contained in the House-passed bill. The jurisdiction of the national petroleum reserves is located in the Committee on Armed Services and the Committee on Interior and Insular Affairs and is not germane to the conference report.

SECTION 162

Section 162, which is a section on coordination with the impact quota system, was expanded by the conferees beyond the language as passed by the House which stated that no quantitative restriction "as may be imposed by law." The language now reads that no quantitative restriction "imposed by law is applied," and by this change present import restrictions contained in the jurisdiction of other committees would be backed up. The change is, therefore, a problem in both scope and germaneness under rule XXVIII.

SECTION 255

Section 255, the relationship of the act to the international energy agreement, was added by the conferees although nothing even similar to this section was included in the House-passed bill.

The new section goes beyond the scope of the conference and is not germane to the jurisdiction of the Committee on Interstate and Foreign Commerce.

Sections 361 to 366, State energy conservation plans, and sections 371 to 376, industrial energy conservation, were added by the conferees and are explained on pages 176 to 182 of the conference report.

This new section creates a program clearly beyond the jurisdiction of the conference since the Jurisdiction of the House on intergovernmental relationships between the United States and the States and municipalities falls within the jurisdiction of the Committee on Government Operations.

SECTION 362

Section 362 which spells out the elements of the proposed State energy conservation plan includes among other things "a traffic law or regulation which, to the maximum extent practicable consistent with safety, permits the operator of a motor vehicle to turn such vehicle right after stopping," This subject matter pertaining to traffic rules and safety has its jurisdiction contained under House rules by the Committee on Public Works and Transportation and is not germane to the subject matter before the conference as passed the House.

SECTION 451

Section 451 contains amendments to the objectives of the Allocation Act and speaks about the maintenance of exploration for, and production or extraction of fuels and minerals. This amendment is an attempt to control the production and exploration of Federally owned property such as the leased tracts of the OSC and is not germane to the jurisdiction of the committee in conference and was not contained in the House-passed bill.

SECTION 453

Section 453, an antitrust provision added to the Allocation Act, permits a new affirmative defense, in antitrust litigation that the alleged breach of contract was caused solely by compliance with the Allocation Act or regulations or order thereof. Antitrust jurisdiction is properly subject under the House rules for the Judicial Committee and is not germane to the conference report.

SECTION 462

Section 462, reimbursements to the States, is added by the conferees and authorizes the FEA to reimburse States for functions performed under the Allocation Act. This is beyond the scope of the conference and creates new authorization for State grants which would assist States in carrying out the functions delegated them by this legislation.

SECTIONS 541 TO 550

Sections 541 to 550, automotive R. & D. were not contained in the House-passed bill and are clearly a matter for the Committee on Science and Technology.

SECTIONS 551 TO 552

Sections 551 and 552, congressional review, had been modified and is different from the language passed by the House. For example: It no longer contains the House-passed language which defines the term "energy action." The effect of this change is to broaden the matters which may be considered under this generic term when the administration transmits its requests under this plan for affirmative actions. In addition, the word "extraordinary" was removed from the heading which gives further weight to this argument.

Under this subsection which identifies the congressional review as change in the rules of the House, the procedure which is set forth to be followed is presumably, supposedly to be the same for both Houses. However, the application of the procedure appears to only be something which would be followed in the House and a change from earlier language which said that House.

Under the procedure contained in the conference report there is no opportunity for amendment of the regulations which are made part of the procedure and part of the House rules.

The procedure for amendment was not limited in the House-passed version and words have been added in subsection (f) (5) (B) at the end and "the amendment described in clauses (i) and (ii) in the subparagraph shall not be amendable." and the words were deleted from the House-passed bill.

PROVISIONS NOT CONTAINED IN THE HOUSE-PASSED BILL

First. Application of advanced automotive technology—sections 541 to 550.

Second. State energy conservation program.

Third. Industrial conservation program.

Fourth. Priorities for mineral extraction.

Fifth. Antitrust provision and Allocation Act.

Sixth. Reimbursement to States.

Accuracy of House reports to explain changes under rule XXVIII, clause 1(c). The joint statement "shall be sufficiency detailed and is to conform with the House rules. It is particularly important that Members of this body be apprised of any change to the rules of the House and procedures. Sections 551 and 552 are not sufficiency detailed; indeed, the language is one sentence in length and states:

The conference substitute follows the House amendment with respect to the procedure to exercise Congressional review.

I include the following:

PROBLEMS IN S. 622

The auto efficiency standards (to meet 25 mpg by 1985):

1. Where did the Conferees get the technical data to support the contention that this is attainable?

2. What is wrong with letting the price of petroleum and the resultant marketplace drive this without getting into another Big Brother Federal Govt posture?

3. Why is the R&D prototype role shifted to DoT without any regard to the Congressional mandate that ERDA, which has the lead role now and has an on-going program, be responsible for fuel efficiency?

The $750 Million Coal Production loan guarantee program:

1. If the gentleman is opposed to loan guarantees, why is he including one in an area where there is clearly no need?

2. Why are there no concerns in his bill for the environment and for the socio-economic disruptions involved?

The Prohibition against joint ventures by major oil companies in exploration and development of new domestic oil supplies:

1. Why is the gentleman barring the companies which have the expertise and the capital from doing the work they are best qualified to do?

2. This provision will make it almost impossible for the development of the OCS by anyone with the capability to do the work and provide the environmental protections necessary?

3. The effect is to discourage the production of additional domestic resources and thereby increase our reliance on imports.

4. Is the gentleman a closet Arab?

The GAO audit provisions are absurd. They authorize the GAO to examine the books, not only of the major petroleum companies, but also each of the 27,000 independent gas stations across the country.

The requirement for energy efficiency

labelling were set without any regard to whether the market would utilize these labels—no marketing study:

1. The expense is mandated for industry without any regard to the energy payback.

2. There is no requirement to see that the standards and the labels are technically feasible and factually accurate.

The industry energy conservation standards—where does FEA get its expertise to either establish standards or improve standards. The gentleman's bill lacks even mention of ERDA or NBS, much less the requirement that these agencies concur (technically) with the FEA standards:

1. Why does the gentleman not rely on the efficiencies and the payback of the industry's conservation actions to be sufficient incentive for those actions?

2. Does the gentleman expect FEA to grow into a regulatory body capable of inspecting each and every little corner store or laundromat to ensure compliance with these standards. Heaven help the federal manpower budget.

Materials allocation (shipping scarce materials to drilling and production companies with designated higher priorities):

1. Is this a proper role of government?

2. When do we start allocating priorities to breakfast cereals?

3. Why does the gentleman here provide a measure of favoritism to the petroleum companies while at the same time making it almost impossible for them to finance or locate resources to bring into production?

Federal Import Purchasing Authority—creates a board to monitor and regulate imports of petroleum:

1. Absurd on its face . . . if the board were to require sealed bids from all OPEC countries under the mistaken belief that it can create competition and dissension among them . . . what makes him even the slightest bit certain that all the bids wouldn't be $22 per barrel. OPEC unity has been proven.

Pricing policy: artificially depresses petroleum prices and thereby depresses domestic production (no profit in it) and thereby increases petroleum imports:

1. Also increases government's role in a regulatory function. This could be the beginning of a never-ending oil-control scheme which will perpetuate the FEA and Government regulation in private industry to the detriment of free enterprise and petroleum production from domestic sources.

2. Because of effects on domestic production and pricing, larger shares of the dollar go to other than domestic oil producers and therefore depresses domestic production capability.

Mr. McCOLLISTER. Mr Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Nebraska.

Mr. McCOLLISTER. Mr. Speaker, after months and months of debate on oil pricing policy, we seem to have made no progress. This bill is still aimed at the same illusion as were its predecessors. We can never assure the American people low prices for energy unless we do something to stimulate the supply of energy. And, S. 622 goes in exactly the opposite direction, discouraging domestic energy production and forcing our country to become even more dependent on high-priced foreign imports.

The fallacious premise of the bill undermines its good intent. And its approach is symptomatic of the mistaken judgment of the majority that they have the power to suspend the law of supply and demand. The collective wisdom of the Congress is no match for the all-powerful forces of the free marketplace when it comes to making decisions on how to distribute goods and services in our economy.

Rolling back the price of domestic oil is an outrageous attempt to fool the American consumer. It is not at all clear that even the short-term impact will benefit the consumer, because the rollback will mean that a greater percentage of each barrel of oil will be imported from abroad. Cheaper domestic oil will be blended with high-priced foreign oil and the overall price may not reflect the attempt of Congress to lower consumer prices.

But worse, the impact down the road in the next year or 2 and over the next decade, if this policy is retained that long, will be to make expensive secondary and tertiary recovery techniques prohibitively expensive and cripple domestic production. Instead of phasing out the wrong-headed controls as "old" oil supplies become exhausted, this bill would bring the "new" oil under controls and inhibit its development and production.

Mr. BROWN of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from North Carolina (Mr. BROYHILL).

Mr. BROYHILL. Mr. Speaker, I think all the Members understand that the motion before us contains the language in the conference report except some amendments that will knock out certain language, so the purpose part of section 102 and part B of title 3, here, if we pass this, is to continue and to add to the powers and the authorities of the Federal Energy Agency. This agency is already a bureaucratic mess. I hold in my hand a committee report which contains conclusions which say that the programs as administered by the FEA can be characterized as inadequate, confused, disorganized, and ineffective.

Mr. Speaker, this report is by a subcommittee of the other body chaired by the senior Senator from Massachusetts—the Subcommittee on Administrative Practice and Procedure. The most interesting conclusion that is in this report, although not surprising, is that the programs as have been administered by the FEA have resulted in lessening of competition. In fact, the FEA officials themselves testified at the hearings which the subcommittee on the other side held that continuation of the present programs "can only lead to increased concentration within the petroleum industry, with the large companies getting larger and the smaller ones disappearing."

Mr. Speaker, I think we should ask ourselves: Is that what we need? Is that the kind of program that is going to lead us to energy independence?

Any time we set up a group of bureaucrats to regulate an industry like this, the only result we can have is confusion, lack of efficiency, fuzzy guidelines and procedures, and, even as concluded by this report, "unfairness to firms in the regulated industry and to consumers."

Mr. Speaker, the purpose of this bill is to increase the power and the authority of the FEA without adding one bit to domestic supply of petroleum.

In fact, the section which has been well advertised as a rollback of prices in the bill would result in less oil for America and not more. In fact, according to recent estimates, no reduction in price would result because of the estimates that are now around that the "banked costs" the industry presently has would pretty well cancel out the so-called rollback in this bill. This bill will not increase one drop of domestic oil being produced in this country, and would increase America's dependence on OPEC oil.

Yes, this bill has been well advertised as a "price rollback" bill. And yet, oil prices would be held down only until election of 1976. After that, prices would be permitted to rise. I am not going to accuse Members of "playing politics," but it is an odd coincidence that prices are held down just to get through an election. It is time we start thinking of the next generation, not the next election.

It is a certainty that this bill will reduce incentives to produce fuel for America. It is odd that last week this House considered a bill to give energy companies vast subsidies to produce new, high cost fuels, yet here just a few days later, we consider a bill that will take billions in capital away from energy companies. This is capital that will be sorely needed if we are going to find the lower price energy, petroleum. There can be no conclusion but that less oil will be produced under such a plan. Every time we have tried price controls in this country, we have seen shortages develop. That is what will happen again here. Where will consumers go to obtain necessary energy? They will go to the Arabs, to OPEC countries. The only place to get oil will be to import it. This oil will be imported at higher world prices and the dollars spent to buy the oil will be controlled by foreign interests. Yet we could be encouraging domestic production, paying less, and the dollars would be controlled by Americans and American companies. And remember this, when you increase the demand for OPEC oil, you better enable them to increase their prices. They have excess production now. This bill would mean that we would take up a big chunk of that excess production.

Mr. Speaker, I, along with many, many of our Nation's leaders, have been concerned about increasing oil prices, but reducing incentives to find new oil is sure to drive up prices even higher.

Such a policy is sure to do something else. It would be a signal to all consumers that we can resume our wasteful ways. All agree that we have been wasteful of energy. Everywhere I go, people agree that this has been the pattern that has been established in recent years. Yet, in recent months, the one good result of the situation as it exists today has been that the American people are conscious of energy wastefulness and are making a total effort to use less. I hear this everywhere. People and businesses are aware of the need to conserve. Rising prices have warned the consumers of the need to conserve. They have responded.

Price freezes. Price rollbacks will give a false signal, you can resume the wasteful use of energy. We must have fuel conservation. The way to get that is through the response of consumers through market mechanisms, not by the force of bureaucratic regulations.

I have long advocated the enactment of excess profits tax on oil profits. This could be combined with a "plowback" feature which would insure that profits are plowed back into the exploration, drilling and production of new sources of petroleum. This is a far better way to legislate on oil prices than the pricing section found in this bill. This section will be impossible to administer fairly. No administrator will be able to write regulations that treat all sectors of the industry fairly. Remember what I said earlier, the FEA cannot administer the present law fairly. If less competition has resulted under present law, then this new law will drive all the little firms out of business.

Mr. STAGGERS. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Speaker, I think it is time that the House recognized where we are at this particular minute. There is a deliberate effort being made at this time to obfuscate the proceedings and a delaying process. Shortly there will be offered by my good friend and colleague and other Members of this body an attempt to defeat the previous question. I think my colleagues should understand where we would be at that point. If that motion would carry, it is almost certain that the very delicately balanced process of compromise which has been achieved between the House and the Senate and the administration would be severely jeopardized, if not totally destroyed. Mr. Speaker, I think my colleagues should understand clearly the consequences of that action. It would mean that there would be at that time then no meaningful compromise which would lead us toward a comprehensive national energy policy.

Mr. Speaker, I do not propose to go into the details and construction of the whole of the conference report in great detail. The conference report contains a summary of the legislation. As Members will note, it is both complex and multifaceted. Briefly summarized, the conference substitute seeks to reduce and manage the Nation's demand for energy and establish programs to minimize our vulnerability to major interruptions in the supply of petroleum imports.

The bill would equip the President with a full range of management tools in order to enable him to assure that the vital needs of this Nation will be met in the event of another oil embargo or other major interruption in energy supply. Certain extraordinary powers, subject to congressional review, have been included which would authorize the President to impose mandatory energy conservation plans and a gasoline rationing program under narrowly defined circumstances. Coupled with these authorities, is the creation of a national strategic petroleum reserve to serve as a means of minimizing vulnerability to abrupt curtailments in petroleum imports. The very existence of standby emergency authorities and the creation of a strategic reserve should act to discourage use of the oil supply weapon by the OPEC nations for short-term political objectives.

This legislation would apply price controls to the entirety of domestic crude oil production in an effort to restore elements of reason to a marketplace whose mechanisms are unable to counteract the influence of the OPEC pricing cartel. These controls will serve to insulate our economy—at least in part—from further sharp inflationary increases in petroleum prices. Our objective is to stabilize the pricing system within parameters of economic tolerance.

Provision is made to give assurance that in the near term this Nation maximizes its production opportunities. Thus, the President is given authority to require production from fields at their maximum efficient rates. Certain limited authority is also granted to require temporary increases in production rates for certain fields during a severe supply interruption. And provision is made to foster competition in the development of public lands on the Outer Continental Shelf by prohibiting joint bidding by the major oil companies. Also, the President is authorized to restrict exportation of energy materials as may be needed to maximize development of domestic resources. Finally, the legislation contains a general prohibition on further exportation of natural gas or crude oil unless the President specifically finds that such exports are consistent with our national interests.

This legislation would extend the Emergency Petroleum Allocation Act and provide a mechanism to convert today's mandatory controls to standby authority. A number of direct authorities are given to the President to augment his existing powers under the Allocation Act to respond effectively to a severe energy supply interruption and to provide for the attainment of the public policy objectives identified in that act.

This legislation incorporates a number of energy conservation programs designed to bring about measured savings in consumption of energy. Regulatory measures have been designed to improve the efficiency of the products we use and the automobiles we drive. Provision has also been made to assist the States in the development of energy conservation plans which may be tailored to the needs and particular characteristics of each State. Targeted goals have been established to promote energy efficiency among industrial consumers. And Federal programs have been structured to require regulatory agencies to consider the energy consequences of their actions.

The conference report includes a provision intended to assist small refiners by exempting them from obligations to purchase entitlements under certain circumstances. The many members have asked me about the effect of this exemption. Let me respond to some questions which have been raised regarding the competitive advantages such as exemption might create and the relative disadvantages small refiners who sell entitlements might suffer.

The potential for competitive disadvantage results from the fact that small refiners who sell entitlements have above average crude oil acquisition costs. Revenue from sales of entitlements helps to offset the competitive disadvantage of such above average costs.

Refiners who are required to purchase entitlements have below average crude oil acquisition costs. Entitlement purchases in effect raise the costs of these refiners and mitigate the competitive advantage enjoyed by reason of such lower than average costs. By exempting certain small refiners from entitlement purchase obligations, these refiners enjoy a competitive advantage. Conversely, small refiners with higher crude oil acquisition costs are disadvantaged vis-a-vis these small refiner competitors.

One of the stated objectives of the Allocation Act was the preservation of competition in the refining industry and specifically referred to the preservation of the competitive viability of all small refiners. It was with this purpose in mind that the entitlement exemption was included in the conference report.

The intent of the conference committee was to assist small refiners with a capacity of 100,000 barrels per day or less. The entitlement exemption was considered as a method of assisting small refiners to compete with large oil companies. The conference committee did not intend to create unfair competitive advantages among small refiners. If small refiners who are entitlement sellers are disadvantaged relative to other small refiners by this exemption or by any other aspect of current regulations, the President has authority under section 4(a) of the Allocation Act to compensate for this disadvantage by regulation and we would expect him to do so expeditiously.

The conference substitute also includes a number of provisions designed to make better use of this Nation's abundant coal resources and, lastly, would establish procedures designed to test the validity and improve upon the reliability of the data which we in Government use as a basis for energy policy decisions.

Mr. Speaker, I think it important to emphasize our concern that, in developing new underground coal mines under section 102 of the conference report, that people not be displaced from their homes unless adequate provision has been made for decent, safe, and sanitary substitute housing. Recent news media accounts of coal companies and allied corporations displacing a number of tenant families in Appalachia to make way for expanding coal production facilities are disturbing. The conferees do not want this program to operate in that way. It is expected that the Administrator will, as part of his regulations, insure that it will do. Big and small business, like Government, has a responsibility toward people to try to find ways to avoid creating new problems in the name of progress. Displacing families, some of whom are on limited incomes and have lived in rented houses for years, without providing adequate substitute housing is callous. Federal assistance programs should not contribute to such an attitude.

I stand ready, of course, to respond to questions of my colleagues concerning the details of this legislation. I commend this bill to you as a compromise energy policy which embraces balanced and achieveable energy goals which are consistent with this Nation's economic condition and I respectfully request your affirmative support.

Let me take one last moment to clarify

certain matters which relate to the development of State conservation plans.

Included in section 362 dealing with State energy conservation plans is a provision (362(d)(1)) which permits a State to include in its plan regulations governing the hours and conditions of operation of public buildings. The inclusion of this provision does not, however, mandate or of itself, authorize and require the regulation of the hours of operation of public buildings. It is the intent of the Congress that a State issuing regulations, and that the Administrator in approving a plan containing such regulations, be fully cognizant of the wide diversity of public buildings which could be subject to restrictions on hours and conditions of operation. For example, regulations dealing with the hours of operation of office buildings may well be appropriate and meet the tests of approval of a plan under section 363(b)(2). However, other industries, particularly retailing, may suffer severe economic dislocations, including unemployment, reduced sales, and economic concentration if their hours of operation are not regulated with full recognition of the intricacies of the respective industry. Likewise, it is extremely doubtful that any one set of guidelines or regulations could cover the broad scope of retail operations.

In this connection, it should also be noted that the Federal Energy Administration authorized a detailed study of the effect of a regulation of retail store hours as a means of achieving energy savings. The final report, issued on October 27, 1974, concluded that based upon its extensive data that only a "low level of energy savings (is) expected to accrue from a program of regulated commercial hours."

It is not the intent of the conferees to place an undue burden on the economy or on local and interstate commerce through restrictions on hours and conditions of operations and it is essential that this discretionary means of achieving energy reduction be carefully studied prior to implementation because of the severe economic and competitive ramifications which could result from improper restrictions.

Mr. Speaker, this is a good program. It is a good bill, one carefully worked out and one which has been worked on for months. As a matter of fact, it has been the subject of consideration in the House since February.

There were weeks of meetings with the Senate. No fewer than 25 Senators from a number of different committees participated.

I would point out that the Subcommittee on Energy and Power has made available to every member of this committee today a comprehensive statement of the impact of the pricing provisions upon the economy. That was delivered to the offices of each Member today.

I would point out further something which is very important: that 4 hours and 15 minutes from now the Allocation Act expires. All price controls on petroleum products, all authority to allocate propane, natural gas, and petroleum liquids and petroleum products expires at that time.

The SPEAKER. The time of the gentleman from Michigan (Mr. DINGELL) has expired.

Mr. STAGGERS. Mr. Speaker, I yield 2 additional minutes to the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Speaker, my colleagues should know that if this bill comes apart in 4 hours and 15 minutes, we will have decontrol. There are people in this country who want to see the Allocation Act and this legislation destroyed.

I would just recall to my colleagues the matters which I brought to the attention of the House: the significant increases in inflation, the significant increases in unemployment, and the economic hardships that would be inflicted upon our Nation, our people, and our society if that transpires.

I would point out that under this legislation we have a more favorable pricing structure for consumers. I would recall to my colleagues that we have a pricing structure which encourages production, and I would recall to my colleagues that we have a piece of legislation that most favorably assures the best possible pattern of growth for our economy, and I would commend to my colleagues, for the purposes of appreciating the precise nature of the pricing structures, the print which is available here at the committee table to any of my colleagues.

Mr. Speaker, I would beg my colleagues to avoid frivolous attempts to destroy this conference report. I would beg my colleagues to support the chairman of the Committee on Interstate and Foreign Commerce in connection with his motion. The result of his motion is precisely the same, with the amendment, and the motion is precisely the same, and if my colleagues in the House will adopt the motion offered by the gentleman from West Virginia (Mr. STAGGERS), we can then move forward toward an extension of price controls and toward a completion of the compromise agreed to between the President and the House and Senate in conference.

Mr. BROWN of Ohio. Mr. Speaker, I yield 4 minutes to the gentleman from Minnesota (Mr. QUIE).

Mr. QUIE. Mr. Speaker, no matter how much some claim that this bill is going to solve our energy problem, let me tell the Members that it is 180 degrees in the wrong direction.

Our problem is that we do not produce enough oil domestically. If we roll back the price of oil, that is not going to help production. We do not produce a drop of oil in Minnesota, but we know something about production.

Roll back the price, administratively or legislatively, of any product, and I will guarantee that you will not get as much production. Farmers held their cattle when we had controls on beef. Oil can be held in the ground indefinitely as compared to beef in the feedlot.

What is that going to mean? This country needs oil. Where are we going to get it? We will get it from foreign sources: OPEC oil. That is not inexpensive oil. That is more expensive than anything we produce in this country. That is going to shoot up the cost to the consumer.

As far as the cost to the consumer is concerned, retail prices are determined by the highest priced crude that is used; the foreign oil that is now reduced by the entitlement program. We are not solving anything by greater dependence on foreign oil, adding to the $25 billion now going out of this country for crude oil.

Mr. Speaker, we do not have conservation of energy in this bill. This bill is totally wrong in that pricing provision.

What are we going to do, increase controls? Give the Federal Energy Administration more power? Is that going to work? I would say no; it is not.

What is the Government to do if Government controls do not work, put on more controls? That is what we are doing with this bill.

We would get more production with the present law, the one that is going to expire in about 4 hours, than we are with this bill. Is this bill going forward? No; it is going backward. If we continue this increase in controls by the Federal Government, we are just taking another step toward nationalization of the oil industry, and that is not going to work in this country.

Mr. Speaker, as far as I am concerned, my people would like lower priced oil, but they want oil, and I am not going to vote to make certain that they get less oil from this country that is going to make them more dependent on foreign oil. That is exactly what we are doing tonight.

I am not going to give FEA more power, with more standby powers to the Chief Executive. Certainly this President is my friend. I do not know how long he is going to be in there. I do not know how he would utilize this, with the kind of power that this bureaucracy will have.

Mr. Speaker, I do not even want to give my friend, Jerry Ford, this kind of power. I urge my colleagues to turn down this motion that is going to hurt all of our consumers in this country. I think this is the most disastrous thing we are about to do in this Congress, to pass this legislation, something that is going to harm us as a Nation, and harm us in this political attempt to bring about a solution to our energy problems in this Nation.

Mr. Speaker, I cannot think of anything worse than the pricing provisions that we are trying to put through here, and all because evidently we are afraid of the next election. My people can see through that. At least, they know economics enough to know that reducing the price is not going to increase production. They know that when we are talking about the length of time we have been discussing here, it just means that it is designed to get us by the next election.

We know we will not get away from controls at the end of 40 months. The people of this country know that this legislation should not be passed.

Lastly, if this Congress was really worried about profits of the oil companies it would have passed a windfall profits tax. None has still come from

the Ways and Means Committee where it must originate.

The people of this country are too smart to be placated by a political expedient.

Mr. STAGGERS. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana (Mr. WAGGONNER).

Mr. BROWN of Ohio. Mr. Speaker, I yield 3 additional minutes to the gentleman from Louisiana (Mr. WAGGONNER).

The SPEAKER. The gentleman from Louisiana (Mr. WAGGONNER) is recognized for 5 minutes.

Mr. WAGGONNER. Mr. Speaker, there is one good thing about the Christmas season. It makes people give, and I am happy to receive this 5 minutes.

I hope, my colleagues of the House, that you paid some attention to the statement made just a few moments ago by the gentleman from Minnesota (Mr. QUIE).

This gentleman does not come from an oil and gas producing State.

CALL OF THE HOUSE

Mr. KETCHUM. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 787]

Adams	Forsythe	Rees
Addabbo	Fraser	Riegle
Alexander	Gaydos	Rose
Andrews, N.C.	Guyer	Rosenthal
Annunzio	Harsha	Russo
Bell	Hastings	Ryan
Biaggi	Hayes, Ind.	St Germain
Bingham	Hays, Ohio	Sarbanes
Bonker	Hébert	Scheuer
Buchanan	Heckler, Mass.	Shuster
Burke, Fla.	Hinshaw	Simon
Burton, John	Jarman	Stanton,
Chisholm	Jenrette	James V.
Collins, Ill.	Jones, Tenn.	Steiger, Wis.
Conyers	Karth	Stuckey
Coughlin	LaFalce	Symington
Crane	Mathis	Teague
Derwinski	Metcalfe	Thompson
Devine	Meyner	Udall
Dickinson	Montgomery	Vander Jagt
Diggs	Moorhead, Pa.	Vanik
Drinan	Morgan	Waxman
Duncan, Oreg.	Mosher	Wilson, C. H.
Flowers	Patman, Tex.	Wilson, Tex.
Ford, Mich.	Peyser	

The SPEAKER. On this rollcall 361 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

CONFERENCE REPORT ON S. 622, ENERGY POLICY AND CONSERVATION ACT

Mr. WAGGONNER. Mr. Speaker, the speaker who preceded me in the well, the gentleman from Minnesota (Mr. QUIE), understands the problem of energy in this country. The gentleman from Minnesota (Mr. QUIE) properly described the ingredients of this conference report and its effect on this country.

Believe me, if we adopt this conference report as agreed to by the conferees, we are heading for disaster as far as energy is concerned, if we are depending on energy to come from crude oil and natural gas, which is the source of about 77 percent of our energy in this country today.

In addition, we are building the bureaucracy. Now, the President and almost everybody I know says that the bureaucracy is too big. Government, faceless bureaucrats, are making too many arbitrary decisions in this country. You will be turning energy over to bureaucrats. You will regret it.

The bill which the conferees have brought here for our approval cannot be administered. If anyone has griped and complained, and the people of this country have griped and complained about what FEA has done with the allocation legislation that they have been trying to administer to the best of their ability, and we saddled them with that monstrosity, we have not seen anything yet. Wait until they start administering this bill.

Now, the President of the United States cannot, unless he wants to bear the burden of every criticism with regard to energy that comes from oil and gas, afford to sign this bill, because all the conferees have done is bring the bill here saying to the President, "You administer it. You do what you think should be done. Here are some guidelines and you do the best you can."

And we know what the President will do. He will try, but every conferee, every Member of Congress here is going to raise hell when he starts administering it because they will say, "That is not what we intended, Mr. President. You ought to do this, you ought to do that." Do not blame me, blame the President. It was designed for this purpose.

We are tying his hands. We are going to, in the quest for our energy, make sure that we have less of it, because it is going to take us 2 years to get back to where we are with regard to price.

That is destructive as far as incentives are concerned. Just consider, you who say, "We want to move toward self-sufficiency," you are guaranteeing that by 1985 our dependency on foreign crude will probably be increased to the extent of having to import an additional—import an additional 8 million barrels a day. That is the situation that we are headed for. That is exactly what the situation is going to be. We are not going to produce it at home, we are going to have to get it from abroad because we are going to have a demand for a sizable increase every year.

My friends, there is one thing we can do here tonight, and everybody will be better off—the conferees, this House, the Senate, the country, in every respect will be better off and we will have a bill that the President can sign. That is to vote the previous question down so that we can offer a substitute to the Staggers motion. If we vote the previous question down, which I implore the Members to do, I am going to move a substitute. I am sure that I will be recognized inasmuch as I am asking for a "no" vote on the previous question so I can offer the motion to adopt a substitute.

The substitute will do three things. One of them, you will understand, has already been done. The motion offered by the gentleman from California (Mr. GOLDWATER) was adopted, and that deleted part B of title V, having to do with motor vehicle information and cost saving as it was in section 301 of the conference report.

Second, it will provide exactly what the gentleman from West Virginia (Mr. STAGGERS) proposes with regard to the definition of developing new underground coal mines.

Third—and this is the answer without which we have nothing—I am going to change the numbers of the pricing provision. I am simply going to offer a substitute which begins without a rollback, but exactly the national composite price figure as of now, which is $8.63 a barrel for crude oil. That is where we are now as compared to $7.66.

Oh, Members can say, "Whooo," but that is what we are paying now, and we are getting some oil and gas. Members can say, "Whooo" now and be getting less. They can cry later about what they have not got. That is exactly where we are. If we want energy, if we do not want to be self-serving politicians, vote against the previous question. Provide an incentive for domestic exploration. Do not go the regulation route. Do not prostrate us before the rest of the world. Do not do it to the automobile industry, only the bureaucrat fears decontrol.

Mr. JONES of Oklahoma. Mr. Speaker, will the gentleman yield?

Mr. WAGGONNER. I yield to the gentleman from Oklahoma.

Mr. JONES of Oklahoma. Mr. Speaker, I rise in support of the comments of the gentleman from Louisiana.

It is my understanding that the conferees attempted to achieve three objectives as they considered the pricing provisions of S. 622: First, they intended to protect consumers from high gasoline and heating oil prices. Second, they intended to leave oil prices high enough to provide an adequate incentive for those who search for and produce oil in this country. And third, they tried to reserve enough administrative flexibility for the FEA to exercise its judgment about where those higher prices should be allocated.

I must agree at least in part with the New York Times' criticism that the pricing provisions of this bill will increase energy consumption and discourage production. I am not sure how much consumption will increase; but I am absolutely convinced that this bill, together with other actions taken recently by the House, will profoundly impair the ability of independents to search for and produce oil.

Independents—who found 94 percent of the new oil fields in this country in 1974—are not integrated companies. They do not receive profits from refining and retailing operations. Their investment capital comes primarily from the new and stripper oil price, from the availability of tax deduction for intangible drilling costs, and from the declining depletion left to them within the limitation of 65 percent of taxable income. These sources of capital are the only economic protections which enable them to sur-

vive in competition with the major oil companies.

Yet, has the Congress endeavored to support the independents' efforts to find and produce the domestic oil needed to reduce our dependence on OPEC? Clearly not. In two inseparable actions, the Congress has not only turned its back on independents but has actually undermined their ability to survive, much less compete.

First, we have passed a "tax reform" bill in which we diminished the use of the deduction for intangible drilling costs. Then we further diminished that part of the deduction we left intact by joining it with the remaining depletion allowance among the minimum tax preference items. Finally, we increased the taxable percentage of the minimum tax from 10 percent to 14 percent.

Was this an overdue censure of the majors? Did it eradicate an indefensible tax loophole which has unjustly enriched large corporations?

Absolutely not. The measure we passed does not even apply to corporations, the majors hardly use the deduction, and many do not take percentage depletion. Our bill hurt only the independents. It empties from their economic arsenal the primary weapons by which independents preserve their competitive viability.

Now we consider their third economic staple: the price they receive for their new and stripper oil.

When the House first considered the oil pricing question, it recognized the importance of the independents' exploration and production contributions. We passed the Long amendment to guarantee a remunerative price for their new and stripper oil. The conference committee could have retained a similar provision in its composite pricing scheme; but the Senate conferees decided instead to recommend to FEA that independents be granted a compensatory price.

This bill will dramatically set back energy efforts in this country, and create a bureaucratic nightmare. It will result in greater dependence upon foreign oil, and it will increase prices for consumer goods, particularly food and clothing.

S. 622 should be defeated because it will replace free market economics with administrative economics. It will place stripper wells and new production under price controls for the first time. And it will drastically reduce incentives for new exploration and production.

Upon careful analysis, this bill will benefit certain segments of the oil industry. But it will only penalize exploration and new production, particularly by independent producers.

The New York Times has called this a "flawed bill," one which "could increase American dependence on imported oil, slow the rate of domestic energy development, and even create another gasoline shortage".

Many of my colleagues will support this bill on the promise of lower gasoline prices, at least in the short run. But I contend that the rumored rollbacks in gasoline prices will be as mythical as the other alleged advantages of this bill. Recent reports indicate that S. 622 may decrease the price of gasoline by a penny, not the 3 to 4 cents the authors claimed. One wonders what other unforeseen consequences may appear in the future.

I believe that the American people have come to realize that if they want an adequate supply of oil and gas, they will have to pay the market price, not the price decreed by Congress.

Several years down the road, when imports are increasing, and domestic production is declining, do not blame the petroleum industry. The blame can be laid at only one place, the Congress of the United States, for a short-sighted energy policy.

When you destroy the economic incentive to find and produce new oil, when you establish bureaucratic obstacles which hinder exploration efforts, when you begin to control the petroleum industry, you are writing the obituary for energy independence in America.

Mr. STAGGERS. Mr. Speaker, I yield 4 minutes to the gentleman from Massachusetts (Mr. CONTE).

Mr. OTTINGER. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I will yield just for a second.

Mr. OTTINGER. Mr. Speaker, I would just like to point out that the New York Times supported the bill and said that the President should sign it.

Mr. CONTE. Mr. Speaker, I rise to speak in support of the Staggers amendment to the conference report to S. 622, the omnibus energy bill. I have listened carefully to the arguments made by my colleagues on this side of the aisle, and I recognize this bill has many shortcomings.

But after considering its assets and debits, I have concluded that my constituents and the people of New England need this bill. It has many strong points, and I am urging the President to sign this bill into law.

One of the strongest provisions in this bill is the extension of price controls in the oil industry for another 40 months. I support this key provision because it insures that oil prices will be stabilized. This is extremely important to New England, where 85 percent of the energy consumed for heat and power comes from oil. An immediate lifting of price controls, followed by sharply higher prices, would have a devastating impact on our regional economy. Inflation would be renewed, and the economic recovery—which is just beginning to be felt in New England—would be aborted.

So passage of this legislation would protect the economy against sudden price jumps at a difficult moment.

Another strong provision in this bill especially needed by New England provides for quick action on emergency fuel storage for both crude and oil products. Present fuel storage capacity in the Northeast is grossly inadequate. Our domestic refineries could not possibly supply New England with its residual fuel needs if the OPEC nations imposed another embargo. I would remind my colleagues that since the early sixties domestic refineries have largely stopped producing residual fuel, and consequently New England consumers, such as utilities and industries, must import 98 percent of their needs.

A third provision that strongly appeals to the Northeast would prevent refiners from piling more than proportionate cost increases on heating fuels. With 80 percent of the homes in New England heated by fuel oil, you could say that this is a burning issue. Since the OPEC embargo 2 years ago, the prices for heating and residual fuels have risen much faster than the price of gasoline.

New England consumers have reacted to these higher fuel prices with an enormous fuel conservation effort. In fact, heating fuel consumption in New England is now about 20 percent below the level of 2 years ago. But this campaign to cut back on heating fuel consumption has gone to its limit. So it is important to protect the consumers of heating oils from additional cost burdens.

In calling upon the President to sign this bill into law, I also want to urge him to take a companion measure vitally important to New England. I urge the President to repeal the $2-a-barrel tariff on oil imports. This tariff has been expensive and largely useless, and its repeal would benefit consumers far more than this legislation. Furthermore, to help consumers during this heating season, the President should repeal this tariff immediately.

Mr. Speaker, while the bill before us may have some flaws, it is far preferable to the only alternative—and that is total decontrol of oil prices. I urge my colleagues to support the Staggers amendment on this to the conference report and ask the President to sign it, therefore vote yes on the previous question.

Mr. Speaker, let us get this energy bill to the White House. If the President decides to veto the bill then we battle it out here in the Congress by either overriding or sustaining the veto but by all means let us get off of dead center.

Mr. BROWN of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from Colorado (Mr. ARMSTRONG).

Mr. ARMSTRONG. Mr. Speaker, I am grateful to my colleague, the gentleman from Ohio (Mr. BROWN), for yielding.

As I listen to the debate on the bill before us I cannot help wondering, just how many times are we going to make the same mistake?

Mr. Speaker, we have been through this same discussion on numerous occasions. I would like to ask the House to consider the stated objectives of this bill.

On page 116 of the conference report, among the objectives which are set forth are to "maximize domestic production of energy, to provide for domestic crude oil prices, and to reduce domestic energy consumption."

Members of the House, we all know that the effect of the pricing provisions of this bill will be exactly the opposite. Under existing price controls which have been in effect for the past 3 years the proportion of our Nation's oil needs supplied by domestic production, has declined, and our dependence on OPEC nations has risen until now we are de-

pendent on overseas sources for 46 percent of our oil, up from 35 percent as a result of unreasonable price controls. Obviously, continuing the controls will be a disaster. To roll back prices, as this bill would do, would be a disaster.

I hope when the time comes that we will vote down the previous question and adopt the amendment, or, failing that, that we will defeat the motion altogether.

Mr. BROWN of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. ARCHER).

Mr. ARCHER. Mr. Speaker, this bill, by encouraging consumption and discouraging discovery and production of new supplies is directly contrary to our national goal of energy self-sufficiency.

Its provisions are so vast that were it to become law, many months would pass before its full effect on energy production and consumption could be assessed. But a few thing are clear about it from the outset.

First, it creates a regulatory scheme of such complexity that it is almost certain to tie up domestic oil production—just as Federal Power Commission regulations have tied up interstate gas production. Anyone who has observed the FPC's performance over the past 20 years, and felt the impact of gas curtailments that have resulted from that performance, will wonder why the Congress wishes to visit the same consequences on oil—to transfer decisions about whether to drill for oil from the marketplace to the halls of bureaucracy.

Second, at a time when the rate of exploration for oil in the United States is finally recovering from a 15-year decline, the bill strikes at the very incentive that has made that recovery possible—the price of new oil. Since whatever is not explored for and produced here must be bought from abroad, the bill transfers income from American producers to OPEC producers.

Third, since every increase in old oil prices must be offset by a reduction in new oil prices if the bills composite price is to be maintained, it strikes hardest at independents, for whom the new oil price is altogether critical. It is not too much to say that after the initial rollback in the price of new oil, the bill transfers income from independents to the producers of old oil, who are largely major oil companies.

Fourth, since the proportion of total domestic production that new oil represents will inevitably grow as the production of old oil declines, the new oil price must come down under the composite pricing system. The possibility is offered that the annual upward adjustment will offset this downward trend, but there is nothing in the bill to assure how much, if any of it, will be so employed. So the bill transfers the fate of the exploratory effort for new oil to an irrelevant factor—the rate of decline in old oil production—and could well result in a continual rollback of new oil prices.

Fifth, the recently passed tax bill struck at oil and gas producers by depriving them of the immediate use of intangible drilling costs. That provision affected only individuals, not corporations. Coupled with the pricing provisions of this bill, the tax measure will help to transfer competitive vigor from the independents to the major companies.

These transfers, Mr. Speaker, are misconceived, unwise, and inequitable. They will make us more dependent on imports. They will vest vital decisions in bureaucratic hands. They will tend to concentrate the oil industry. The committee has erred in recommending these transfers, and I will not lend them my support.

Mr. BROWN of Ohio. Mr. Speaker, may I inquire how much time each side has remaining?

The SPEAKER. Each side has 12 minutes remaining.

Mr. BROWN of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. BROWN).

Mr. Speaker, with respect to this debate, it seems to me there are certain truths, and these truths are evident. Our constituents, the American people, do not want higher petroleum prices. Our constituents, the American people, or most of them, are probably of the opinion that a rollback of domestic crude prices will result in lower petroleum prices to them.

We know, and the American people should know, that we have increased our dependence on foreign crude by 6 percent, from 35 percent to 41 percent, within approximately the last 2 years. We know, and the American people should know, that we decontrol the price of crude, and in view of the actions of foreign producers, necessarily increase the cost of products to consumers every time we buy one extra barrel of foreign crude.

Therefore, at the rate we have been going, we are becoming more dependent on foreign crude oil, and in not too many distant years we will have decontrol because of our dependence on uncontrolled foreign oil regardless of what we do this evening.

In short, Mr. Speaker, it seems to me that the supporters of the motion offered by the gentleman from West Virginia (Mr. STAGGERS) are being loyal followers, loyal followers of what, at the moment, appears to be the will and opinion of their constituents. However, not what would be the will and opinion of their constituents were their constituents to have the advantage of that which those Members know.

Mr. Speaker, we have become increasingly prone in this House to be a group of populists, if I may say so but I think our constituents want us to exercise our best judgment. Therefore, in acting upon this question, I would suggest that we keep in mind the words of Edmund Burke:

> Your representative owes you, not his industry only, but his judgment; and he betrays instead of serving you if he sacrifices it to your opinion.

I urge a no vote on the previous question and support of the substitute motion which will be offered by the gentleman from Louisiana (Mr. WAGGONNER).

Mr. KETCHUM. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Michigan. I yield to the gentleman from California.

Mr. KETCHUM. Mr. Speaker, I rise in opposition to the conference report.

Mr. Speaker, I rise in opposition to this legislation, S. 622. The Emergency Petroleum Allocation Act of 1973 was enacted to serve as our Nation's desperately needed energy policy during a period of severe shortage of crude oil and its products. We are again confronted with a comprehensive energy bill posing as the be-all and end-all to our Nation's energy shortage. This extension of the Emergency Petroleum Allocation Act will only serve to carry over those inequities witnessed in the current price control and allocation program.

Our country is in dire need of an energy policy that will lead us toward energy independence, and increased domestic petroleum production. The Democratic leadership pays continual lip service to these goals, yet constantly brings before the House so-called energy bills which make these goals more impossible. While reserves of both oil and natural gas have been declining in this country over the past years, little has been done of a positive nature to stimulate the search for additional reserves. It is long past time to introduce some sanity into our deliberations in energy.

While domestic demand for petroleum products has been growing at a rate of about 7.5 percent a year, domestic production of petroleum has declined by 1.1 million barrels a day since 1970. To make up the gap in this excess of supply over demand, we have come to the point where we import 38 percent of our petroleum. The Arab embargo demonstrated this is an intolerable situation, but one which will worsen to 50 percent dependency by 1980, and 60 percent dependency by 1985, unless this Congress takes responsible action.

To alleviate the present dilemma, and cut down on imports we can do one of two things: cut down on demand or increase the supply. We have spent entirely too much time in this Congress experimenting with schemes to achieve cuts in demand, but have not undertaken any sensible plan, save one, to increase supply. That has been a major and costly mistake.

I do not dispute the fact that there are many ways the American people can conserve on petroleum. The 55-mile-per-hour speed limit is one concrete example. I believe we should conduct an extensive campaign to educate our citizens on the need for conservation. But there is a limit to the savings to be achieved through decreased demand without worsening our economic situation.

Since 1950, there has been a steady correlation between growth in GNP and growth in energy consumption. If we are serious about bringing this country out of the current recession and restoring a growing economy, we must realize that petroleum consumption is going to go up as well. I do not seriously believe that the days of 7.5 percent annual increases in petroleum use will ever return, but most reliable estimates put growth at 4 percent per annum over the next 10 years.

Let me emphasize that an absolute zero growth rate in petroleum consumption, or even worse, an artificial ceiling based

on 1973 consumption levels, will be accompanied by continued recession and double-digit unemployment figures. The Arab oil embargo resulted in a 7-percent drop in real GNP—eloquent proof that decreased demand can be pushed only so far without economic consequences that are totally unacceptable.

Still, this is the tactic that has been predominantly favored by the majority party. First, they offered us H.R. 6860, the Energy Conservation and Conversion Act, as reported by the Committee on Ways and Means.

This bill, with its reliance upon a gasoline tax and import quotas, will have created an artificial shortage of petroleum products, especially gasoline. It is a grotesque monument to the theory that Congress can reduce consumption without any visible consequences. Not satisfied with this travesty, the leadership served up the Interstate and Foreign Commerce Committee's gem, H.R. 7014. The height of lunacy was reached in this bill, which mandated that no more gasoline may be sold in the future than was sold during the embargo. Apparently the majority feels that the embargo was such a good idea that it needs repeating, and if the Arabs will not accommodate us, Congress will.

Now before us, the energy conferees have reported the conference bill to S. 622 (H.R. 7014), the Energy Policy and Conservation Act. This bill rather than encourage increased domestic production of petroleum, actually retards American energy independence. Not only will this measure drastically setback our energy efforts, but it will compound the regulatory problem that has been largely responsible for our present energy shortage. The oil price rollback provision of this legislation which Congress has scaled down to 12 percent from approximately 14 percent will immediately increase oil consumption in the United States. And, uncertainties with regard to future prices will cause many producers to put a lock on their wells during the coming forty months of control, the exact opposite of what is needed.

Our Nation hungers for more domestic crude oil. What is needed so desperately now is an increase in incentives for drilling to raise the domestic supply of petroleum. The only sound policy by which to do just this is by complete decontrol of domestic oil prices.

Price controls never work, they only create scarcities, and still higher prices in the long run. The only visible effect that the Emergency Petroleum Allocation Act, and the controls on "old" oil which it authorized, have had is the current mess we find ourselves in. As I stated during the debate on H.R. 7014:

> With the world market price for oil fluctuating between $11 and $14 a barrel, what producer in his right mind is going to pour his money into wells whose product brings him $5.25 a barrel?

Individual initiative and economic incentives inherent in our private enterprise system form the backbone of our great Nation. The only way to encourage more production is to allow petroleum producers to obtain a fair price for their product—a price in line with demand.

Of course, expiration of the President's authority to control oil prices will witness the price of oil from wells prior to 1972 in the United States to rise immediately from $5.25 a barrel to current market trends of $10 to $11 per barrel. I am not advocating that decontrol will not lead to increased prices of petroleum products. It will. But failure to decontrol will lead to a greater dependency upon foreign oil sources, which will be inevitably more expensive than decontrolled American produced oil. The days of cheap energy are over for good, it is about time we initiate a policy to accelerate the efforts of our individual producers by increasing economic incentives, unleashing competition, and stimulating technical progress in all areas of our oil industry. This calls for decontrol of oil as rapidly as possible.

I maintain that a sensible energy policy produces more energy. With the choice between this bill which would increase the shortage, or immediate decontrol, I view the latter infinitely preferable. Price controls have proved a disaster whenever they are imposed, and serve only to create a shortage of the controlled product. We need immediate offshore drilling. We need development of our shale oil reserves. Yet S. 622 will not accomplish any of these goals effectively. There is absolutely no justification for this legislation, which in essence is but a rewrite of the same old congressional proposals which have served us in the past so poorly.

Mr. RONCALIO. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Michigan. I yield to the gentleman from Wyoming.

Mr. RONCALIO. Mr. Speaker, I rise in reluctant opposition to the conference report on S. 622. We in the Congress have been telling the American people ever since this new Congress began back in January to hold on, to wait just a little while longer and the Congress will give the people a comprehensive energy bill.

To a great extent this bill does that. There are many excellent provisions which I strongly support. These include establishment of an oil reserve to provide greater protection against another Arab embargo should it become necessary; mandatory fuel-efficiency standards for automobiles; energy-efficiency standards for appliances; Federal funding for States that develop energy-conserving plans. The legislation also increases the reliability of Government information about the oil industry, something sorely needed. The Congress has here demonstrated clearly that we know that the resources of this country are unmistakably finite. And that this country must take responsible actions to conserve these resources by utilizing them in the most efficient and prudent manner possible. We have not backed away from our energy problems in these areas and have established a foundation to meet head on our energy conservation problems. Those that have worked closely with this legislation since its beginning must be commended for an excellent effort in these areas.

Mr. Speaker, were it not for title IV of this bill, dealing with the oil policy pricing provisions I would stand before this body as one of its strongest supporters. Instead I must stand here as one of its strongest opponents. Mr. Speaker, and my colleagues, the price provisions of this legislation can only increase our dependence on imported oil for the next few years, slow our rate of domestic energy development and perhaps by increasing consumption create another gasoline shortage. An effective energy program requires the stimulus to oil production and fuel conservation which only uniform, market prices—true market prices for oil can produce. We have recognized the fundamental and overriding fact of the oil crisis—that our resources are finite—but we have not dealt with them. We are saying with this bill, you the people must conserve, but here is cheap gas so you do not have to if you do not want to. We are saying that the country has a choice between artificial prices set by the Congress or artificial prices set by the world oil cartels.

Mr. Speaker, I too am concerned about the effects of decontrol on the overall economy. I voted back in July for $11.50 cap and a 39-month phased decontrol program, an effort that failed by a mere 18 votes to secure a majority vote in the House. I felt then and still feel that this would have been an excellent compromise of the massive and complex issues involved.

This was the best plan, my colleagues. It should have been adopted. Accordingly, Mr. Speaker, feeling as I did then, and as I do now, I find S. 622 counterproductive. I urge my colleagues to vote with me against this conference report—a vote to send it back to conference to develop a realistic policy to deal with the fundamental problem—that our resources are finite, and to a realization that we must recognize this fact and pay the price, the fair market unimpeded price.

Mr. STAGGERS. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Speaker, I frequently come to this well taking a somewhat partisan position with respect to pricing. I know that, I admit it; but I want to talk now to the Members not as Democrats, not as Republicans, not as those who would cut back the price of oil, or as Members who would not cut it back. I want to talk to the Members of the greatest deliberative body in the world, the U.S. House of Representatives.

Mr. Speaker, I am glad to hear applause because if we did not vote "aye" on the motion for the previous question, we would appear to be a very different body, an aggregation of infants in the process of legislation.

We have come to this point after almost a year of deliberation, and, during the last part of that period, the conference sat not just as the conferees for the House and the Senate, but as a tripartite body, with the FEA present purporting to speak for the President with respect to the question of energy pricing.

If we should at this time not accept the motion that is made by my chairman, if we did not vote yes, and there happened exactly what the gentleman from Louisiana (Mr. WAGGONNER) said would happen, what would occur? The bill

would be taken apart. Whatever agreement has been made, whatever work has been done would be dismantled at that point; and we would be back where we were at the beginning, indeed in a worse position than we were in the beginning for we appear to the people of the Nation as vacillating, fickle children.

Mr. Speaker, I am talking here to many who disagreed with me on the pricing section, and I think I can talk to them as persons who respect the House and its processes and respect reasonable accommodation within the power of Congress enough to keep intact a bill that has been worked on for a long time, and more than that, persons who want to retain the dignity of this House and do not want to make it the laughingstock of the Nation.

Mr. Speaker, we are that close to a solution of this problem. If we vote "aye" on this motion, we will have solved a difficult question, not for all time, but at least for a good while in the future.

If any Members have any question about the level of pricing, let me assure them that the average price in the bill that this body passed was $7.55.

The conference report's provisions that would be accepted if the chairman's motion is voted on favorably raises that figure to $7.66, and in addition, provides flexibility through a number of provisions including an escalator of up to 10 percent increase per year.

Mr. BROWN of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from Alaska (Mr. YOUNG).

Mr. YOUNG of Alaska. Mr. Speaker, this legislation contains several important provisions affecting production of oil on the North Slope of Alaska.

Although these provisions were originally included in an effort to recognize the difficulties of production in Alaska, they will as currently written, seriously jeopardize the production of oil from the Prudhoe Bay field and place a severe crimp on future exploration activities in Alaska.

I am extremely distressed that this legislation places the reserves of Prudhoe Bay in an economically questionable position.

The 6-year delay in construction of the trans-Alaska pipeline has brought about vast increases in the cost of delivering the North Slope oil to the marketplace.

This legislation will allow the President to establish a ceiling price for Alaskan oil only if not disapproved by either House.

This provision will place the future financial solvency of the State of Alaska in the balance and subject to the whim of the political fever of the times.

Proponents of the Alaskan pricing formula base their arguments on the cost of producing the oil on the North Slope yet ignore the extremely high cost of transporting that oil to the market.

The full development of the Prudhoe Bay Reserves will only take place if the marginal costs for producing that oil are expressed in the marketplace. This situation is exactly like those that will be faced in the rest of the United States when controls governing marginal wells prove too restrictive.

Regardless of what is claimed by the proponents of this bill, this plays directly into the hands of the OPEC nations.

Exploration activities in the gulf of Alaska and the Beaufort Sea will be greatly inhibited by these price controls and place a further burden on the State government if lease sales in those areas produce little revenue.

In our search for energy independence, we cannot ignore the need for the efficient development of our domestic resources in an effort to stem the dependency on foreign oil.

Further, we cannot ignore the necessity of full production from proven reserves.

Only our market economy will allow for the attainment of these goals—not the will of Congress.

Finally, and most importantly, I cannot accept legislation that interjects a level of uncertainty into the potential revenues from the production of oil in Alaska.

The exploration and production of oil in Alaska is much too important to be hindered by this uncertainty.

I urge that this legislation be defeated for these reasons.

Mr. DINGELL. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Florida Mr. ROGERS, one of the conferees.

Mr. ROGERS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, may I say, and I only have a minute or so, that the conference report that has been brought to the floor is a common sense approach. Let me tell the Members why. All we have heard talked about is one small section of the bill, pricing.

Do the Members know that pricing has the agreement and the concurrence of the President's own advisor. Mr. Zarb has said that this is satisfactory because we give flexibility in the pricing section.

We have set a composite price which gives flexibility so that we can encourage new oil, and I repeat, new oil. That is where we have given the President the flexibility. Let me say this that at this pricing 2,000,000 barrels of Alaska oil is not even included in the present composite price and we give the President every 6 months the right to come in.

Mr. YOUNG of Alaska. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. I cannot yield, if the gentleman from Alaska will permit, I only have a few moments.

We give the President the right to come in every 6 months to raise prices if it becomes necessary and the facts warrant this. Such prices go into effect unless this Congress says no.

So certainly we are all protected, and the advisers to the President thought so. That is one part of the bill: Everybody is protected. Another is conservation.

Mr. Speaker, this conference report represents a reasonable, commonsense resolution of a difficult problem—how to decrease this country's reliance on foreign sources of oil, and at the same time not jeopardize recovery from a severe and prolonged recession.

Throughout the debate over the months this year, and indeed, since October of 1973, there has been a consensus that oil imports should be reduced and that the reduction should be compensated for by a combination of increased domestic production, and reduced consumption but how are these proposed to be achieved?

This bill reflects the decision of this House and the Senate that we can achieve substantial reductions in energy consumption—not making all energy prohibitively expensive—but rather by changing the way we use energy—by increasing the efficiency of our energy use. This makes sense, since we well know that the other major industrial countries enjoy similar standards of living and similar industrial output at a per capita energy consumption a fraction of this country's.

So in this bill we give the President the statutory authority he requested in January to require energy efficiency labeling of appliances and automobiles, and to establish efficiency standards for major appliances. We put into law the increase in automobile gas mileage which the President has requested of the auto manufacturers. And we encourage private industry and the States, and require the Federal Government, to adopt plans to achieve substantial conservation over presently projected levels.

The bill also reduces vulnerability to any future cutoff of foreign supplies by giving the President the authority he requested in January to deal with emergency supply shortages by allocation and rationing and requiring emergency production rates, and to establish a strategic petroleum reserve as a buffer against such an emergency.

And the bill contains provisions designed to increase domestic oil supplies. It encourages the use of coal and requires domestic production of oil at the maximum efficient rate. And it establishes a pricing policy designed to do several things: to give the President flexibility to provide incentives for increased domestic production; to keep prices from rising too rapidly while the conservation provisions take effect, and, as a stimulus to the economy, to provide an initial rollback from today's prices to those of January of this year.

The pricing provision is the result of painstaking negotiations with the administration, and I believe it makes good sense. It recognizes the simple truth that it will be to no avail if we increase our domestic oil production, but there is not a sound economy to use that oil. I was very pleased to see the administration abandon a narrow concern for using increased prices to reduce consumption and increase supply, without concern for the effect of this on the economy.

It has never made sense to me that in January 1975, when the uncontrolled price of oil had been raised to about $11.28 by OPEC, that this country should say: "We don't think that's high enough," and raise the price another $2 by imposing an import fee—I would emphasize that this was not thought of as an incentive for increased domestic production—the President's proposal included a $2 excise on domestic oil as

well. It was intended only as a brake on consumption.

But why stop there? Why not a $5 fee? Why not $25 per barrel oil? Because there are limits to what you can do to the economy in this way. And everyone has discovered this—OPEC, which has cut production 20 percent and has been unable to pass along its recent 10 percent price increase; the domestic companies, which have had to bank $1.4 billion of price increases the market would not bear, but most of all, the 8 percent unemployed in this country, and 12 percent in my district, and higher in many of your districts, who cannot find a job because an economy that runs on oil can no longer afford it.

In the face of this bankrupt, single-minded devotion to higher prices, whatever the effect, it seems eminently reasonable to me to adopt the conference pricing provision which would temporarily roll back oil prices to the levels of January, when new oil was selling at $11.28; $11.28 for oil which reflects OPEC's price increases from $1.75 a barrel in 1970, to $2.90 before the embargo and then to $5 in October of 1973.

It is not only reasonable, it represents quite a retreat from the stronger pricing provision this House adopted in its bill. As you will recall, at one point, the House voted 215 to 199 to strike the pricing provision altogether. Then the Members went home to their districts during the July recess and got the message on what their constituents thought of prices set by the formula, "OPEC plus two." The second vote was 231 to 193.

But we have compromised with the administration, and reached a reasonable solution.

If you would permit, I would make one final observation. The House recently adopted a budget resolution which permits a deficit of $75 billion. The economists tell me that if unemployment were reduced from 8 to 4 percent, revenues would increase and payment would decrease so that that deficit would be cut by $64 billion. Let us not forget the goal of balancing our spending with our receipts, by getting the economy back on the track.

By adopting the conference report, we are adopting an energy policy based on conservation, increased efficiency and increased production without forgetting the other goals we must pursue.

The SPEAKER. The time of the gentleman has expired.

Mr. BROWN of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. COLLINS).

Mr. COLLINS of Texas. Mr. Speaker, the energy crisis in America will become much more severe if we pass this Energy Policy and Conservation Act conference report. This energy conference report was written for political expediency and ignores economic logic.

The most important conservation measure in the bill, which would have prohibited unreasonable transportation of all schoolbuses in America that are transporting public school students beyond their nearest school, was removed from the bill. Saving millions of gallons of gasoline and improving education at the same time—this worthy provision was omitted. So gasoline continues to be wasted.

America must produce more domestic oil. Yet, this conference report provides a $12.50 per barrel price to be paid for Arab crude oil and all foreign imports, while it limits domestic prices to $7.66 per barrel. This represents a rollback on American oil of $1.09 from the current domestic price of $8.75 per barrel. A few years ago, America was totally self-sufficient in oil. Yet, today we have gradually slipped back to where 43 percent of our oil is from imports. Twenty years ago, America was moving ahead by drilling 58,000 new wells each year. And we have dropped down to a 1973 level where we drilled only 28,000 wells. Open pricing could put America back on a self-sufficient oil basis within 5 years.

Instead, Congress has mandated price controls in the oil and gas industry. It should be emphasized that price controls are only on the oil and gas industry and on no other industry in America. Price controls always create product shortages. In all of history, price controls have never worked.

Let us recall the policy of the United States when we moved into the gold market, back in the days of President Roosevelt. Congress applied a price control of $35 an ounce for gold. Gold drifted abroad because the price on gold was higher. America lost 80 percent of its gold reserves on hand. Today the world price on gold is $138 an ounce, and America has finally been forced to get out of the price control business. Now that we have lost all of our gold, we are forced into the world market price.

While the price of gasoline in Europe ranges from $1.36 to $2 per gallon, we find short-sighted Congressmen who will not let gasoline seek its free level, which would be 3 cents higher than the present market, and would mean that gasoline would sell around 64 cents per gallon in the United States.

Why should America jeopardize the Peace in the Middle East by continuing to build and strengthen the Arab Nation' monopoly on the world oil? Why should we pay the Arab Nations $12.50 per barrel on oil, but pay only $7.66 to U.S. oilmen? We do not pay our own domestic producers enough to explore, develop and recover new and secondary production, which would make America oil self-sufficient.

During the past 10 years, the big oil corporations have achieved a record of accomplishment never matched by other industries. In 10 years, ending in 1973, the major U.S. oil companies invested $86.6 billion, whereas their total profits were only $60.6 billion. This means they invested $26 billion more capital than they earned in drilling, exploring and producing new oil.

So much of what a customer pays for gasoline is tax. Last year, taxes went up 30 times as much as stockholders' dividends increased. The price of crude oil is only a small part of what you pay for a gallon of gasoline at the pump.

In the past 50 years, the price of a gallon of gasoline—before taxes—has only inflated 58 percent, but the taxes on gasoline have gone up 13,230 percent.

It costs more to produce new crude oil. Much of the production is in secondary recoveries, which involves water injection and chemical treatments. Pipe is selling for twice as much; Labor costs 3 times as much as it used to. Costs are up and yet, under this absurd conference report, we roll back the price of crude oil on U.S. domestic production.

The conferees plan of rolling back the price would increase demand by 500,000 barrels per day. A lower price paid for U.S. crude oil will reduce supply by 600,000 barrels per day. This means we are going to be importing over 1 million barrels per day just as soon as this new plan is implemented. Coming on top of the loss of the depletion allowance, the petroleum industry's cash flow is crippled and oil development will be dropping rapidly.

Look at our domestic reserves, which have seen oil drop from a 13.5 year supply in 1938 to a 6.7 year supply in 1973. Gas reserves have dropped from a 40.5 year supply in 1940, to a 11.1 year reserve in 1973. We are not discovering new reserves, and we are rapidly using up the old fields we have on hand.

We talk about hydroelectric power and coal, but remember 76 percent of our total energy comes from oil and gas—46 percent is based on oil and 30 percent is generated from gas. America's demand and consumption increases as its per capita has risen from 14.2 barrels a year in 1949, to 30 per capita barrels in 1973.

It has been suggested that tar sands provide a good alternative source for oil. In 1967, the capital costs for tar sands was $6,000 per daily barrel. And today, estimates are running $20,000 per daily barrel for plant capital.

Although this bill will create less and less domestic oil, it does generate one thing and that's paperwork. I researched one of the smaller oil companies and found that on FEA form P324-A-O it will take 4,500 man-hours for the first submission, and 1,900 man-hours for subsequent annual submissions. This company spends $20 million annually preparing Government reports, and that means an extra price on your gasoline.

Enclosed is a listing of the 409 reports that are filed with 45 different agencies at this time. Many reports are duplicative. Many are never used. Many require information that the oil companies do not even have. With this new conference report on energy, the oil industry will have no one left in the fields finding new oil, but they will have the computers working day and night turning out 409 reports for 45 different Federal agencies. And, in addition, they have all of the State, county, and local commissions, plus all of the other reports any bureaucracy can dream up.

Listed below are the Federal reports now required:

409 reports to 45 different agencies

	No. of reports
Dept. of Interior	100
Dept. of Labor, HEW & EEOC	57
Dept. of Treasury	48

Dept. of Transportation	43
Dept. of Commerce	38
Federal Energy Administration	34
Dept. of Defense	28
Environmental Protection Agency	14
Interstate Commerce Commission	13
Federal Power Commission	11
Other	23
	409

Federal reports by subject matter

Prod. & Exploration Volumes & Operations	53
Domestic Sales and Exports of Crude Oil	45
Receipts, Runs and Inventory of Crude Oil	47
Transportation, Marine & Pipeline	69
Environmental, Health & Safety	43
Financial: Statements, Revenues, Costs and pricing	47
Personnel, Labor and Wages	50
Minerals and Coal Activities	10
Other (Primarily Permits and Licenses)	45
	409

Let Congress speak with courage and conviction and build a logical, progressive energy policy for America.

I urge you to vote no on this conference report.

The SPEAKER. The time of the gentleman has expired.

Mr. DINGELL. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina (Mr. PREYER).

Mr. PREYER. Mr. Speaker, the Commerce Committee has worked overtime on one of the most complex issues ever to confront the Congress. Much of what it has produced merits our approval and I support the conference report. Yet in one crucial respect—the effect of the bill's pricing system on crude oil exploration in the lower 48 States—the measure is seriously deficient.

The exploratory effort is conducted largely by independent producers. Last year, according to industry data, independents found 94 percent of the new oil fields. For the first time in 15 years, independents drilled close to the limits of their ability. The reason was that the market price for new oil approached incentive levels. In one State, Kansas, where independents do virtually all of the drilling, a 20-year decline in production was halted. If there is one clear lesson to be learned about oil production from the recent past, it is that an adequate price for new oil is essential to exploration, and to the vitality of the independent sector of the industry.

Yet the bill cuts the new oil price by at least $2, and probably by as much as $2.50 per barrel. And that is only the begininng. As the production of old oil declines, new oil will inevitably make up a larger share of total domestic production. Since a composite price must be maintained, the new oil price must be brought down. Further, as FEA raises the price of old oil—as it is entitled to do under the bill—that, too, must be counterbalanced by a decrease in the new oil price if the composite price is not to be exceeded. Therefore both geology and administrative decisions will reduce the incentive for new exploratory efforts.

Major oil companies produce most of our new oil, as they do the old. But the major companies need not rely totally on an adequate new oil price. They have other sources of income. For the independents, and for domestic exploration, the new oil price is everything. If that price is depressed far below incentive levels, three things will happen: the rate at which new reserves are found will sharply decline; the ability of independents to compete with the majors will be reduced, and concentration of the industry will grow; and the United States must replace, with even higher priced oil from OPEC, every barrel it does not find and produce domestically.

If this bill is to become law, I believe it is vitally important that FEA maintain the new oil price for independent producers at incentive levels. That will require severe restraint in lifting old oil prices. It will also require giving to the independents' new, and stripper oil prices, a very substantial part of the annual increase in the composite price. The mechanism which the conference committee has chosen to regulate oil prices is a dangerous one. If it is not to cripple the exploratory efforts of the independents, it must be consistently exercised in a manner that will sustain their new and stripper prices at levels that make it economic for them to find and produce petroleum.

Mr. STAGGERS. Mr. Speaker, I yield 3 minutes to the majority leader, the gentleman from Massachusetts (Mr. O'NEILL).

Mr. O'NEILL. Mr. Speaker, this is a bill that we have been working to perfect for a year. Our House Commerce Committee held 57 days of hearings and markup sessions. This House has had 11 days of debate, and we have had weeks of House-Senate compromise. In three instances the President vetoed energy bills that we sent to him. This, perhaps, has been the most parochial issue that could ever hit the floor. It is extremely difficult to write an energy bill .

We in New England, in the northeast section, who depend upon so much Arab and Venezuelan oil, feel differently about the legislation from those Members from Texas, or Oklahoma, or California, or Louisiana, or from the Tennessee Valley Authority section. We feel differently from those in the Northwest where there is an abundance of natural gas.

So it has taken all this time, all these months, these weeks, to write a comprehensive national energy bill which the advisors of the President say the President will sign.

I wish we had had more Members on the floor earlier today when the gentleman from Michigan (Mr. DINGELL) spoke. I think his remarks were excellent, and he outlined the bill in magnificent detail.

The issue that the Congress has worked on for a year now comes to a vote on the previous question. If we vote to defeat the previous question, allocation dies at midnight tonight. We then have no energy program for the Nation.

It is interesting to hear the cheers of the gentleman from Texas. I can imagine he is as parochial on the issue as are the other 434 Members representing different sections of the country. He is for oil, and he is for big oil. I admire him for articulating the economic values and oil interests of his area. However, if I were he, I would not sit there with a sneer or a smile at the rest of us who are trying to pass a national energy policy and conservation program. This is a problem that we have been fighting over a year. It is a national problem when we realize that in 1973 oil was selling in this country at a rate of $3 to $4 per barrel.

Inflation has gone up by 26 percent. That is a lot. It is 8 percent a year. But oil has gone up about 340 percent per year. Yet, some Members say that this bill hurts the fellow who is in the oil industry back home. I feel sorry if it hurts anybody, but I cannot conceive how in a period of 3 years the oil prices can go up 340 percent, and the oil industry can be hurt that badly.

If Members want to kill the bill, then they can vote against the previous question. But, if they want to vote in the best interest of America, if they want to vote in the best interests of the consuming public, then they should vote for the previous question. Let us send this bill, on which so many people have been laboring for so long, to the President of the United States because it is in the best interest of the American people, and because there are those of us who think of the American people.

Mr. WAMPLER. Mr. Speaker, this body has heard time and again of the importance of a national energy policy and why we must act now to guarantee energy self-sufficiency. All of us are aware, by now, without citing statistics that have become all too familiar since the oil embargo of 1973–74, that we are as a nation desperately in need of a policy that would guarantee energy self-sufficiency. We know, for instance, that nuclear energy can provide a substantial supplemental energy source at some point in the future; that geothermal energy will also provide a supplemental fuel source; that coal gasification and liquefaction, oil shale and solar energy, are future sources, as are perhaps the forces of the tides. We also know that while we are expanding our total energy base from other sources to maintain a high degree of economic viability, oil consumption must be decreased and domestic oil production must be increased. Then too we know that we are fortunate in our country to have sufficient coal resources to see us through this transition period of reducing oil consumption and increasing domestic oil production while at the same time researching and developing other sources.

We have before us today the conference report on the bill entitled "The Energy Policy and Conservation Act." This legislation, struggled over for the best part of this Congress, purports to establish an energy policy for the country by reducing the consumption of oil through energy conservation programs and by rolling back prices initially and then gradually allowing price decontrol over a period of years. As to whether this bill either establishes an oil policy or an energy policy, I must agree with the editorial appearing in the Washington Post, November 19, entitled "The Failure of Oil Policy," that this legislation "is a botched job."

Furthermore, the bill in attempting to convert some of our gas- and oil-fired burners in our electric utility plants to coal and thus save oil, also fails to get the job done that is needed to provide our people with adequate electrical energy for the future.

Mr. Speaker, this bill is not the kind of an energy bill the people want and need to keep our industries rolling and provide our people with jobs, heat, and light—it is not a cure to our energy dilemma.

Why, for instance, are we neglecting coal, our most abundant energy resource? The coal industry stands ready and willing to shoulder the burden, yet we continue to place our dependency on petroleum, a significant portion of which is imported from OPEC nations. This will continue to be the case until we remove unwarranted constraints imposed by Federal agencies, limiting the capability of the coal industry to rapidly increase production so that coal will be our energy base during this interim period. Domestic coal reserves are available now for production, sufficient to meet our projected Btu requirements for the next several decades. The simple fact of the matter is that domestic petroleum reserves are not available for production in quantities that would provide us with the necessary crude oil to meet our increasing energy requirements.

Presently we are facing a natural gas shortage which could place numerous jobs in jeopardy this winter, particularly in the industrial East and Middle Atlantic States. Just recently Columbia Gas of Pennsylvania announced that it is cutting off natural supplies for 5 months to 37 industrial customers. U.S. Steel, the Nation's largest steel producer, was among the affected companies. A spokesman for Columbia Gas stated that the cutback is designed to protect residential customers and is necessary because of dwindling supplies. Fortunately for the plants and employees involved, Columbia Gas selected 37 plants with alternative fuel capabilities. The point should be made that this is only December and the next group of plants affected may not have such capabilities. Therefore, it is imperative that those industrial installations now using our precious natural gas begin preparations to acquire the capability to convert to alternative fuel sources, preferably coal.

The Energy Policy and Conservation Act would extend the authority of the Federal Energy Administrator to direct powerplants, and other major fuel burning installations, to convert to the use of domestic coal. This provision does not go far enough, as no timetable is offered and no incentives are provided to expedite the process. The National Coal Policy Act, H.R. 9906, which I introduced in September, does include a timetable providing sufficient time and incentives for oil and gas burning electric powerplants and industrial installations presently not utilizing coal to convert to coal. After 10 years, oil and gas-fired electric powerplants and large industrial burners would be required to use coal as a primary energy source to the maximum extent practicable. This utilization will require an additional 300 to 400 million tons of domestic coal per year by 1985. It will establish a true oil conservation policy.

The Energy Policy and Conservation Act provides $750 million in loan guarantees for small operators to open underground low-sulphur coal mines—less than 1 million tons per year. This is the second and last coal provision provided, and will do little to stimulate coal production in the amounts required to meet the energy demands of our Nation. Certainly we should help the small operators, but coal, in the quantities required to form the base fuel for our energy policy, must come, for the most part, from those experienced mine operators in the industry. A similar policy encouraging wildcatters into the oil industry as the sole means of increasing domestic oil production would be laughed out of Washington. The Energy Policy and Conservation Act merely gives lip service to coal, our most abundant energy producing resource. No provisions are made for applicable Clean Air Act amendments or for coal transportation, or for research and development, without which we could not move the coal or burn it, regardless of any stepped-up coal production this bill might bring about.

The Energy Policy and Conservation Act is not a measure establishing an energy policy but rather a measure attempting to establish an oil policy. This is not to say that a revamping of our oil policy is not needed; however, we cannot accomplish this job and say to ourselves that now we have a new energy policy and our worries are now over. This simply is not the case. Under the bill before us today we are still using oil and gas as the basis for our energy policy. It is beyond comprehension that we are going to continue to depend on these energy sources as the basis when a domestic supply of both is critically limited. This reasoning is especially difficult to comprehend when one finds little or nothing in the bill before us to encourage oil producers to expedite the production of domestic oil supplies.

On September 29, I offered an alternative to this policy—H.R. 9906, to establish a National Coal Policy—which would take into consideration the ample coal reserves available, as well as the need to move from an energy policy based on oil and gas to one based in the near term primarily on coal. This bill, which I urged the Energy and Power Subcommittee to act on, would mandate coal substitution as previously discussed, and would also provide Federal funds and tax incentives to assist industry's required conversion. No such incentives are provided in the Energy Policy and Conservation Act. H.R. 9906 would require Clean Air Act amendments, including the use of tall stacks where reliable and enforceable. No provisions of this nature are provided in the Energy Policy and Conservation Act. As a matter of fact, the bill before us today, and other legislation soon to be brought to the Floor, places even more limitations than now exist on the burning of coal.

If we do not provide a reasonable balance to the environmental-energy question there are likely to be several conflicts and jurisdictional questions between the Federal Energy Administrator, who would be required under the act to direct a given plant to convert to coal, and the Administrator of the Environmental Protection Agency, who in turn would say that coal cannot be burned at that particular plant under existing Clean Air Act regulations. H.R. 9906 provides that technological and economic factors are to be considered jointly, identifying tradeoffs required to responsibly amend the existing air quality standards. This provision should act as a deterrent to the aforementioned conflicts. The National Coal Policy Act would further provide for railroad assistance and rail-banking of railroad trackage as well as consideration of coal pipeline development. These provisions are necessary to assure adequate coal transportation capability. The Energy Policy and Conservation Act is silent on these problem areas.

The coal industry, even now, is in dire need of assistance insofar as training and manpower development are concerned. This problem is not addressed in the bill before us today. H.R. 9906 would provide matching Federal-State grants through the Bureau of Mines to public colleges and universities doing mineral research and would authorize the Bureau to make basic Federal grants for training mineral and safety engineers and scientists. It would also authorize the Bureau to provide direct grants to high schools, community colleges, junior colleges and other educational institutions to train machine operators, mechanics, safety personnel, mine foremen and other mining personnel, and to grant supplementary funds to the private sector where this would be conducive to the increase of such training. The bill would further provide funding for additional coal mining and preparation research by the Bureau of Mines and provide Federal grants to States for pilot testing of improved coal land reclamation techniques. The bill would also allow accelerated write-offs for coal gasification and liquefaction development and tax write-offs for new mining equipment to insure necessary incentives and assurances to all sectors of our economy that their Government is serious about establishing a workable energy policy.

H.R. 9906, the National Coal Policy Act, is a comprehensive measure that carries the potential of shifting the basis of our energy policy from oil and gas to coal. The enactment of a national coal policy based on the concepts of my bill should go a long way toward guaranteeing an energy-independent United States by 1985.

I therefore cannot support this conference report. I will, however, support a simple extension of the current law for another 60 days, with a direction by the House to the Committee on Interstate and Foreign Commerce to redraft this legislation to prepare a true energy bill. Certainly we would be no worse off by the delay.

Mr. RIEGLE. Mr. Speaker, I concur in the gentleman from Louisiana, GILLIS LONG'S statement that the Federal Energy

Agency not design a pricing structure which benefits the major oil companies at the expense of independent producers.

The existing price structure has enabled independent producers in Michigan to improve materially their oil reserves since the Arabs first imposed their embargo in October of 1973. In fact, more new oil and gas fields were found in Michigan last year than in any other part of the country and it has helped prevent a gas shortage in the State.

On a national scale, the independents found 94 percent of the oil in the United States last year. It is my understanding that the conferees intend that the price for new and stripper oil remain economically attractive so that the independents can maintain this momentum. I hope this is the case because I worry about the impact a rollback in the new and stripper oil price would have on independent production.

The assurance of a reasonable new and stripper oil price for independents within the confines of a composite price will not affect consumer prices. It would, however, insure continued exploration, price stability and ultimately greater independence from the Arab oil cartel.

If a reasonable price for independents is denied by the Federal Energy Administration the result will be a transfer of income from independents to the majors. I supported the amendment of the gentleman from Louisiana, and I support him again today.

Mr. HARRINGTON. Mr. Speaker, I rise in opposition to the conference report on S. 622, the compromise energy bill. The problem of meeting our future need for energy at prices which the people of this Nation can afford is probably the most important domestic issue today. Yet, after literally years of hearings and debates, we are being asked to vote for an energy bill which, by no stretch of the imagination, represents a comprehensive, workable, or even rational, approach to the energy problem.

Rather, it represents a vehicle by which both sides of the issue can claim partial victory and save face. In my opinion, this bill epitomizes what is wrong with Congress. I do not believe a single Member of Congress actually believes this legislation will be effective in the long run in either increasing supplies or holding down price. But like most other patchwork compromises that pass around here for policy, it is a bill which is least objectionable to the greatest number of people.

There is litle argument that we have a serious long-term energy problem. But there are two separate and distinct theories as to the cause of the problem and its solution.

One holds that the crisis is largely a function of government meddling in the free enterprise system, thereby not permitting the price of energy to rise sufficiently to cover the cost of development of new energy sources. The other holds that the energy crisis is largely a function of the monopolistic structure of the oil industry and that the solution lies in more Government control of energy development and prices.

Clearly, these two schools of thought are incompatible. Yet, after three years of work, the Congress has devised a piece of legislation which embodies both views. The bill sets ceilings on the price of oil and imposes all kinds of controls on oil companies, thereby making Congressmen like myself happy. At the same time, it provides for a phaseout of those very controls over a 40-month period, thereby making the administration and free enterprisers happy. In addition, it makes all of us incumbents happy by keeping prices low through the election, and then letting them rise once we have been safely returned to office. But while we all go home happy, the legislation has done nothing to solve the basic problem—it has probably made things worse.

I am voting against this bill with a great deal of reluctance. There are a number of vital sections of the bill which ought to be made part of any energy policy. The creation of crude oil and refined product reserves, to protect us from foreign blackmail; the extension of allocation policies to protect the independent sector from exploitation by the major oil companies; and the energy conservation standards and guidelines, all are important concepts which ought to be enacted.

But I cannot, in good conscience, vote in favor of what is little more than the business as usual response of a branch of government which has elevated compromise to its highest art form, even at the sacrifice of rational policy.

While the alternative to this bill—potential decontrol of oil—will, in my opinion, have serious detrimental effects on the American economy and consumers, they may not be as serious as the effects of permitting the American people to believe we have an energy policy, when in fact we have a pseudo-policy at best.

Mr. WIRTH. Mr. Speaker, I am pleased to see that the conferees have agreed to include a provision in this bill designed to encourage van pooling, a new energy-efficient way to get people to and from work. Van pooling makes use of 8-to-15 passenger vehicles, which are usually owned by employers.

Studies have shown that this new commuter transportation mode can cut gas consumption significantly and help relieve traffic congestion. In Minnesota, for example, a pilot project by the 3M Company has saved company employees over 1.4 million vehicle miles and more than 100,000 gallons of gasoline over the course of a year.

A similar program is underway at the Johns-Manville facility and at the ERDA Rocky Flats Plant in my own district in Colorado. These energy savings programs have a proven track record and enjoy wide public acceptance and support as an opinion poll which I inserted in the RECORD last week shows. These halting first steps should be encouraged and expanded.

Section 381 of the energy bill directs the Administrator of the Federal Energy Agency to undertake public education programs designed to encourage energy conservation and to promote car pooling and van pooling arrangements. Section 362 provides that van pooling promotional programs shall be included in State energy conservation plans, while section 363 states that these promotional activities are eligible for Federal funding after a State's energy plan has been approved.

Mr. Speaker, section 415 of the House bill, which I offered as an amendment in committee, authorized the Federal Energy Agency to begin working to encourage the use of van pooling. The van pooling provisions in the final version of the bill, while utilizing a somewhat different approach than the House version, will, nonetheless, enable us to accomplish what section 415 set out to do.

Mr. GUDE. Mr. Speaker, I intend to vote for this bill—albeit reluctantly—and I hope my colleagues and the President will support it as well. My support for the bill is based on the realization that it is probably the best we can get between a Congress uninterested in real conservation and an Administration committed to decontrol. The only alternative to this bill may well be no bill at all, meaning immediate price decontrol and a rapid resurgence of inflation. That this path is less desirable is the best argument for the bill.

Probably the most serious deficiency of the bill is its failure to deal meaningfully with the issue of conservation. I have commented on this before in connection with the energy tax bill (H.R. 6860) and the initial version of this bill (H.R. 7014). While setting up appliance energy efficiency standards of marginal significance, Congress has consistently refused to take any meaningful steps to guarantee gasoline conservation—the place where the greatest opportunity for savings lies. All efforts to set up a gasoline tax have been defeated. Efforts to impose a tax on inefficient autos were also defeated in favor of a regulatory standards system, an approach which opens the door to prolonged protests, delays and litigation as we have witnessed in the case of auto emission standards. A tax approach is a cleaner one administratively and one which builds in its own penalties for delays and noncompliance. By junking that approach we have agreed to accept years of argument with the auto industry and, ultimately, even further compromise away from our conservation goals.

The result, I fear, is a bill which will not effectively reduce our fossil fuel consumption to lessen our dependence on foreign oil, which is the real short run energy crisis. This failure is particularly unfortunate in view of the real limitations I see on our ability to increase domestic supplies.

This brings me to the bill's second deficiency—its failure to deal intelligently with the pricing/supply question. I base this conclusion on several premises I believe to be compelling. First, faced with an inevitably declining resource, it makes little sense, environmentally or economically, to sacrifice everything for that last barrel of oil or that last cubic foot of gas. Of course we should continue to explore and produce, but we should simultaneously recognize the midterm limits of that approach and put our real money on the development of alternative sources of

energy. Granted that is a long term solution, but we must begin research and development for the long term now.

In the same context we should recognize that there is no free market in oil, that the price is effectively set by the Arabs and other foreign oil producers and that "decontrol" is not a market clearing tactic but a surrender to cartel pricing. The price of new oil has roughly tripled in the last several years without producing increases; indeed, the increases have mainly produced calls for decontrol of all prices. I fail to see why such a tactic is necessary to increase oil production.

Finally, we should return to basics. In the long run, energy alternatives to oil will be necessary. Decontrol is not a long run strategy. Neither, however, is it a short term strategy. Price increases in the past 2 years have not produced more oil, and I doubt that more increases will have a different effect; yet it is precisely here in the extreme short run that the crisis lies. That crisis is in the form of a potential future embargo by our foreign sources of oil, a crisis which will not be averted by decontrol.

One part of the answer to the crisis lies in some of the emergency features of this bill—the contingency plans, the petroleum reserve, and so forth. The other part of the answer, unfortunately, is missing. It is a tough conservation program—exactly my earlier point.

Having said all this, one might ask, why then are you voting for the bill? The answer is, simply because it appears to be all we can get. Despite the fact that the pricing provisions—a rollback followed by gradual decontrol—are blatantly political—the rollback lasts only through the next election—and economically unsound, the alternative appears to be continued Presidential vetoes, and ultimately, immediate, complete decontrol, which is not in anybody's interest except the major oil companies. Under these circumstances, then, I am constrained to support the conference report on S. 622, but I intend to continue pressing for other legislation that will better deal with our energy problems.

Mr. ROUSSELOT. Mr. Speaker, the conference report on the "Energy Conservation and Oil Policy bill" should be defeated in its present form. The bill amounts to another futile legislative effort to remedy a sickness, in this case the U.S. energy crisis, with a dose of the same cause that brought it on—a restricted market place with regulated prices.

While there are many provisions in the bill, ranging from stand-by rationing authority for the President, to provisions for a national civilian petroleum reserve, my comments on the bill will confine themselves to only a few areas that would produce especially onerous and undesirable results for the Nation and the Nation's goal of energy independence.

The first area of concern relates to title 4, and the change from the current two-tier pricing system for domestic crude oil to a so-called Average Price Plan. Under this plan "new" oil, which currently amounts to about 40 percent of domestic production, would, for the first time, come under price controls. The average price of all domestic oil, both "new" and "old," would immediately be rolled back from about $8.75 per barrel to $7.66 per barrel. Under the provisions of the proposed law, the President could allow this average price to rise by a maximum of 10 percent annually until the new law expires in 1979. Such price rises, however, would be subject to congressional veto.

All of the other sections and provisions of the bill are subordinate in importance to the effectiveness of this proposed "Average Price Plan." The provisions calling for reserves, auditing and rationing will contribute nothing toward solving our Nation's long-term energy problems if this proposed price structure fails to stimulate adequate investment in domestic exploration and development, and serves to continue our dependence on OPEC oil.

There are numerous problems with the new price plan. First of all, the plan mandates an average ceiling price without specifying how this ceiling is to be reached. As we all are aware, existing law requires a specified ceiling—$5.25 per barrel—for "old" oil, while leaving "new" oil prices free to respond to the market. The new plan, on the other hand would abolish the mandatory distinction between "old" and "new" oil, and would leave the President free to decide whether to create new categories and how to adjust prices within them. In place of the two tiers, it substitutes an indefinite number which could be changed at will and at whim. Nothing is definitely ruled out, except for the possibility for the oil to be priced by the best determinant of all: Full and free competition. For new companies trying to make long-term investment decisions in terms of exploration and new energy development, the new "Average Price Plan" increases uncertainty and risk.

It should be pointed out that uncertainty is especially significant in the high-cost areas of secondary and tertiary recovery—the use of water, steam, and chemicals to force previously unextractable oil into wells—and the development of oil in Alaska and on the Outer Continental Shelf. It is sad to note that under the provisions of the bill before us, oil explorer in Alaska, for the first time, will have to face the possibility that whatever new reserves they discover will fall under regulated price controls. It would be impossible for the President to exempt such reserves, or even to propose exempting such reserves, until 1977.

A major impact of the pricing plan will be to continue the ongoing decrease in domestic production and increase in imports from OPEC nations. This trend is inevitable since this legislation does nothing to remove the cause, as I mentioned earlier, but rather simply aggravates them. Some figures to point up this problem might be helpful.

Since 1973 the annual cost of imported oil has risen from $8.2 billion to $24.3 billion. During this same period of time, domestic production has fallen 8 percent. This reduction in domestic production has been caused primarily because of price controls which have artificially increased demand and reduced supply. The new price plan would serve to lower the controlled price even further, thereby creating even a greater gap between supply and demand. How big will the gap be? The American Petroleum Institute estimates that in 1980 consumption of imported oil will be 1.7 million barrels per day as a direct result of this legislation. And we thought this legislation was going to help reduce our dependence on foreign oil.

Whatever the exact figures may be, it is abundantly clear that the "average price plan" would significantly discourage discovery and exploration of new reserves. As today's "old" oil, now selling at $5.25 a barrel is used up, the President will have to push the price of "new" oil to lower and lower levels to meet the mandated average.

It seems that the only real goal of this legislation is a purely political one: to reduce the prices of fuel oil and gasoline to the consumer, and to keep them low, while doing nothing to solve the serious problem of reducing our energy dependence on foreign nations and increasing the Nation's energy alternatives by encouraging exploration for new oil and the development of new energy sources.

Mr. Speaker, the absurdity of this new price plan is clear. As Frank Zarb noted on November 6—

> All this bill does is guarantee that the higher energy bills are paid to foreign producers and not used to insure production from our own resources.

Rarely have a bill's certain effects been at more of a variance with its professed goals.

Mr. FRENZEL. Mr. Speaker, I shall vote against this strangely counter-productive conference report, despite the pleasure of seeing Congress finally do something, anything, after more than 2 years of ongoing energy crises. The logic of a bill which will reduce domestic energy supplies somehow eludes me.

The counter-productive nature of the bill is enhanced by the fact that it not only reduces domestic supplies, but also its artificial price rollback encourages demand. Even that weird policy might be tolerable for a while if the political motivation of a bill that reduces oil prices only until election time were not so obvious. That fact puts calluses and a very hard shell on an already bad policy.

A quick perusal of the "conservation measures" in this bill reveals no important, strong features which will reduce energy demand. The auto engine efficiency standards are the single feature which is supposed to generate more energy savings, but that feature only puts into the law some verbal guarantees already given by automakers to the President.

What I know about the bill is negative, but what we do not know concerns me even more.

Today for instance, we learned, on the floor, that the bill now contains certain loan guarantees to energy producers. Just this week, the House rejected similar loans by nearly a 2-to-1 margin. The same people who told us those loans were bad last week, are telling us they are

good today. I guess it depends on whose friends own the mine.

The 40-month phaseout of price controls is the best feature of this bill. It would be tolerable if only the phaseout did not begin with a rollback. I have some doubts that this Congress, or another like it, will actually let controls expire. But because the expiration date exists, the bill only represents 3 years of bad policy which is surely better than bad policy in perpetuity.

Even if the bill should not be vetoed, or if a veto should be overriden, that expiration will eventually lead us to a more reasonable energy policy.

Mr. Speaker, the Congress should be congratulated for taking only 26 months to pass an energy policy. Unfortunately, it is a bad policy. I urge the defeat of this conference report.

Mr. SARASIN. Mr. Speaker, It is with some reluctance that I cast my vote in favor of this Energy Policy Act Conference Report before us today, but also with the conviction that there are positive aspects to this legislation and that it is unquestionably the best bill we can hope to get out of this Congress. For the same reason, I will urge President Ford to sign this bill into law rather than exercise the veto some Members have urged.

This is not a particularly good bill. It contains a blatantly political provision to temporarily roll back oil and gasoline prices until after the 1976 election, after which they will begin the inevitable rise. The entire pricing structure included in the bill is needlessly complex and difficult to administer and will undoubtedly result in significant short-term increases in oil imports.

The very mechanism of establishing a mandatory average price for old and new oil under the bill is contrary to experience and logic, since it requires steadily less expensive sources of new oil as the lower priced "old oil" resources are exhausted and it makes up a smaller and smaller percentage of the average barrel.

In the face of all this, I will support this bill because, again, it is the best we can hope for at this time. The Congress has been wrestling with the energy issue for 2 years now and the net result has been negative. When we return for the second session in January, we will not just be approaching a presidential election year, we will be in one. Clearly that will not improve the chances for agreement on a meaningful energy program, particularly with a number of Members of the Congress aspiring to higher office. The country can wait no longer to at least take a hesitating step toward an energy program.

The Conference report is surely a great improvement over the energy bill, H.R. 7014, which the House adopted in September. It does establish some form and direction for our energy policy. It includes provisions regarding coal conversion, strategic petroleum reserves, standby authorities, auditing powers, conservation goals, and international energy efforts many of us have been fighting for over the past months. It recognizes, albeit reluctantly and inadequately, the need for an upward adjustment of crude oil prices to reflect true market conditions and future resource development.

I vote for this bill today because the country simply cannot afford more haggling and inaction on the energy front. It is not a good answer to the Nation's needs, but if we recognize that it is a first step toward a policy and build on this very tentative start, we may be able to develop a workable policy.

Mr. PICKLE, Mr. Speaker, I rise in opposition to the conference report on S. 622, Energy Conservation and Oil Policy Act on the grounds that it will fail to accomplish its purpose to provide a comprehensive energy policy for the Nation. This bill would seem to encourage increased fuel consumption in the near future, discourage long-term domestic supply, and betray the American consumer.

The most complex part of this bill would provide for an immediate rollback in domestic prices by arbitrarily establishing a $7.66 per barrel composite price for all domestic oil. This rollback of $1.09 from the current average price of domestic oil and new oil is an arbitrary figure which misleads the consumers into thinking that they are going to save money. This can only be a very temporary measure. At best, it will encourage people to use more of a very scarce and expensive commodity. The formula itself is so complex that in order to interpret what a barrel of oil costs I predict that thousands of pages of regulations and interpretations will have to be published by the FEA. These fancy formulas that necessitate complicated regulations and interpretations of the regulations can only lead us further down the road to completely hamstringing the oil industry in Government red tape.

In my opinion, rolling back the price of crude oil is a step in the wrong direction. This will effectively stifle the incentive for new production that is desperately necessary. In order to attract the necessary capital we must assure it of a reasonable return. That is not true here. In fact the average price plan now necessitates an immediate cutback in the price of new oil but would encourage us to rely on foreign oil.

This short-sighted policy will also affect the permanent university fund endowment of the University of Texas. I would like to insert a copy of a letter that the chairman of the land and investment committee of the board of regents of the University of Texas wrote President Gerald Ford urging him to veto this legislation should it pass the Congress.

My major objections to the bill are as follows:

One. The oil pricing provisions. The bill, by establishing a domestic composite price of $7.66 per barel, represents a rollback on the average price of old oil of $.65, and a rollback on new oil of $2 a barrel. The result is to take away the incentive to drill for more new oil, and is a further disincentive to conservation.

Two. The grant to the President to administratively set prices for various categories of oil production. This is illusory, because when he raises the price of old oil, he must lower the price of new oil, since the composite price cannot exceed $7.66 per barrel.

Three. The administrative costs and burdens. The costs resulting from this bill are staggering. Not only are we encouraging a giant bureaucracy to continue to grow, issuing regulations, et cetera, that are already hopelessly complicated, as anyone who has had to study the FEA regulations will testify, but we are also requiring more recordkeeping on an already overburdened industry.

Four. This bill involves the jurisdiction of several committees; as has been made clear today. I urge you to think carefully of the long-term implications of this bill.

The letter follows:

THE UNIVERSITY OF TEXAS SYSTEM,
November 26, 1975.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: As Chairman of the Land and Investment Committee of the Board of Regents of The University of Texas System which manages the lands set apart to the Permanent University Fund as an endowment of The University of Texas by the State of Texas, I urgently request that you veto H.R. 7014 (S. 622), "Oil Price Roll Back Legislation", which has recently been passed by both Houses of Congress and submitted to you for signature. Such bill, if signed into law, will have far reaching adverse effects on the Permanent University Fund Endowment of The University of Texas, and the millions of Texans of both this and future generations, who receive benefits from this permanent educational endowment; countless thousands of Texans who are directly or indirectly dependent upon the health of the oil and gas and related industries in this country for their livelihood; and ultimately all citizens of the United States who will have to pay higher and higher prices for a natural resource of this state which will arbitrarily be placed in a shorter and shorter supply.

The 2,100,000 acres of land set apart by the Constitution of Texas in 1876 for the permanent endowment of higher education in the State of Texas has played a vital role in providing energy to the people of the United States since its inception. The first major oil discovery in the vast Permian Basin of West Texas and Eastern New Mexico was made on University Lands in 1923, and since that time a total of 1.2 billion barrels of oil have been produced from the more than 268 fields located on University Lands. Current production from University Lands, if taken separately from other production in Texas, would rank it as the eighth largest producing state in this country.

The increase in prices for new oil which started in late 1973 and which has reached the $13.50–$14.00 per barrel level currently has clearly indicated that new petroleum reserves can be developed on these lands if the ever increasing costs of development can be offset by higher prices. The trend of decrease in actual production from University Lands can and is being reversed at this time as a result of higher prices. In 1973 oil production fell seven percent, but the decline was only one-half of one percent in 1974. Production has actually increased thus far in 1975. University Lands presently have more than 5,000 oil wells and 189 gas wells. Last year, an additional 120 wells were drilled, representing a fifty (50) percent increase over 1973. The more than 5,000 barrels a day of "new oil" production developed in 1974 was a result of new field drilling as well as "infill drilling" in old fields which also increased a substantial amount. Higher prices have also had a benefit on

bonuses received on University oil and gas leases. Bonuses had begun a gradual decline in 1966–1972 from an average per acre price of $62.79 to $27.77. Bonuses received at the 62nd Auction Sale held on December 12, 1973, amounted to an average of $132.43 per acre; an average of $63.26 per acre for the 63rd Auction Sale held on September 19, 1974; and an average of $72.33 for the 64th Auction Sale held on October 10, 1975.

Higher prices being paid for intrastate gas even more dramatically indicate that higher prices will lead to the development of much needed reserves of this natural energy-resource. Up until 1972–1973 as a result of the fixed pricing policies adopted by the Federal Power Commission over the last 20 years, gas royalties amounted to only 9–10% of the total royalties received from University Lands. As gas prices have increased since 1973 from 30 cents MCF to their present level of about $1.90 MCF, gas royalties have increased about 500%. All of the increased gas production has come from discoveries in the deep gas Zone formations of the Delaware Basin which lie at depths ranging from 17,000 feet to 28,000 feet. Well costs can easily exceed $2 million and costs of wildcats in the deeper portions of the basin can go much higher. One recent dry hole on University Lands cost more than $5 million. These high costs can only be offset by higher prices and are a necessity to the development of these known but as yet unexplored reserves.

A recent study prepared by the University Lands Office of Geology located in Midland, Texas, indicates that higher prices for new oil has resulted in the largest geophysical exploration program ever conducted on University Lands having been initiated which is still some 6 months to a year from completion. Likewise, two tertiary recovery projects are being planned for University Lands in reservoirs where water flooding has failed. Reserves of oil under University Lands could be increased substantially by tertiary recovery, but not at the prices resulting from the roll back provisions of H.R. 7014. Of course, this is true of all producing areas in the United States not just University Lands. The roll back of new oil prices will result in the temporary shelving or permanent abandonment of these projects so vital to the continued growth of the Permanent University Fund endowment and the development of natural energy resources so desperately needed by the consumers of this country.

In view of the foregoing, I fervently urge that you veto H.R. 7014 which will have a lasting detrimental effect on the growth of the Permanent University Fund endowment and the millions of Texans who benefit therefrom; the independent oil industry in this State which has played a vital part in the development of these natural resources located on University Lands; and ultimately the people of the United States who will pay higher prices for its energy and be made more, rather than less, dependent on foreign oil at higher prices.

Respectfully yours,

EDWARD CLARK,
Chairman, Land and Investment Committee, The Board of Regents of The University of Texas System.

Mr. BROWN of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from Arizona (Mr. RHODES).

Mr. RHODES. Mr. Speaker, I am not at all sure what the President of the United States will do with this bill. He might sign it, he might veto it, but I can tell the Members one thing: If the previous question is voted down and the gentleman from Louisiana offers his amendment and it is adopted, I can guarantee the Members the President will come a great deal closer to signing it than he would to sign the bill as it came out of conference.

The one glaring error in this bill is the failure to understand something which unfortunately the Members on the majority side have not understood for a long time. That is that the name of the game as far as energy is concerned, is supply. Price is a function of supply. For some reason or other they cannot seem to get it into their heads that we do not set a price on petroleum by law if we expect to get an adequate supply.

So if we will allow the gentleman from Louisiana to offer his amendment to put the ceiling price—and I wish there were not any ceiling price—but if we allow the gentleman from Louisiana to put the ceiling price at what it is now instead of a rollabck, then I think very likely we would have a bill which would merit the signature of the President of the United States.

But believe me, there is no way we are going to get more oil by keeping with this fetish of trying to get a price by law which is lower than the market price.

Mr. Speaker, oil is oil, whether it comes from Saudi Arabia or Texas or Louisiana or Venezuela or Indonesia. It is still oil and the price determines whether we are going to have production in this country.

I do not have to tell the Members about our problems with the balance of payments. The thing we must do is get this country in a position to be self-sufficient in petroleum as rapidly as possible. If we cannot get this country to be self-sufficient in petroleum we will have to go to some alternative source. But we do have the oil reserves, we have natural gas reserves, and if we only allow the price mechanism to work these resources will be brought into play and we will once again have the situation the gentleman from Louisiana referred to, where we may make ourselves self-sufficient so far as oil is concerned.

My good friend, the majority leader, has mentioned that this is a sectional matter and it should not be. I agree with him. It seems to me this is a national problem and the whole Nation is served the best by providing the most energy for the lowest price, and the lowest price is obtained by providing the most energy. We have not been able to repeal the law of supply and demand, although we have tried.

So vote down the previous question and vote for the amendment of the gentleman from Louisiana.

Mr. BROWN of Ohio. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Speaker, I strongly oppose the conference report to accompany S. 622, the Energy Conservation and Oil Policy Act. It is a counterproductive piece of legislation that will only worsen our present energy problems.

As I have repeatedly stated on the House floor, we need to free ourselves from dependence on unreliable foreign oil. The Arab oil embargo and the staggering price increases by the oil producing nations have demonstrated that the United States must achieve energy independence. This country cannot continue to rely on foreign oil without endangering its economic and national security.

S. 622, however, will move us in exactly the opposite direction. It will mean less exploration, less development, and less production of domestic oil. This will necessitate even greater imports of foreign oil, precisely the path we must not follow.

Let us take a look at the pricing mechanism for domestic crude oil. The bill requires a rollback of domestic oil prices from their present average level of $8.75 per barrel to $7.66 per barrel. This is a $1.09 drop over the previous price. Although there is some provision for increasing the composite price, the allowable yearly increase is only a small percentage. In short, the domestic crude oil price is set far too low and is adjusted upward far too slowly.

Reducing the price of domestic oil may be politically popular. Over the long term, however, it will greatly injure our national interests. It will serve as a disincentive to production at a time when we need more production.

This makes no sense. It is ridiculous to roll back the price of domestic oil to $7.66 a barrel while imported oil is running over $12 a barrel. If we adopt such unrealistic price ceilings we will lock ourselves into permanent energy shortages.

This would be tragic. We must have greater domestic energy production if we are to become self-sufficient in energy and meet the growing energy needs of our citizens.

The best way to increase domestic production is to allow a higher rate of return on capital for the exploration and development of oil. Federal controls have taken the profit out of new energy development. It is time to put profit back into the business.

Higher prices would allow the use of secondary and tertiary recovery methods so that more petroleum would be available for everyone. Higher prices would also provide the capital that is needed to explore and develop new oil and gas reserves. This would especially help the small independents who drill about 80 percent of the wells in the United States.

We should not kid ourselves. The Congress cannot legislatively mandate the production of cheap oil in abundant quantities. Despite all the liberal rhetoric, Government controls do not create supplies.

Controls do, however, create shortages. The pricing provisions of this bill will mean that less oil will be discovered and produced in the United States. As domestic production drops, we will be forced to import more foreign oil.

This means an increased balance-of-payments drain. It also means increased dependence on unreliable foreign oil, Given the fact that our oil imports are already costing in the $25 billion a year range and that foreign oil is accounting for 40 percent of our needs, we can ill afford adding to either result.

Mr. Speaker, S. 622 is a faulty piece of legislation. The bill offers no real solu-

tion to our long-term energy needs. In fact, it will only make matters worse. I urge that it be defeated.

Mr. BROWN of Ohio. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. KRUEGER).

Mr. KRUEGER. Mr. Speaker, I had not intended to speak on this subject, because I had spoken on it some months before, and was perhaps heard enough.

But, Mr. Speaker, in the 1 minute allowed me I would like to point out one reason that I will vote against the previous question: That is, that the bill, as it is presented to us at this point includes a kind of bureaucratic nightmare with regard to pricing provisions that is going to make it extremely difficult to implement. We have a composite price on new oil and we have GNP deflator and Government controls; but these controls are going to last for 40 months and at the end of that time this House will be in an even worse position if we pass the present bill than we are in now, because those controls will be continued for so long under such difficult circumstances that I would urge a no vote.

I wish, in addition, to make some observations on two particular sections of this bill.

First, I wish to discuss briefly the provisions in section 403(a) of the Energy Policy and Conservation Act of 1975. This section provides significant and necessary relief to a group of small refiners who have inadvertently been subjected to an unfair burden by FEA's crude oil equalization program, also known as the entitlements program. Many of the Nation's refiners with capacities of 100,000 barrels per day or less have been forced to purchase entitlements under this program, in effect paying subsidies to their competitors, who are often the major, integrated oil companies. Such a burden hardly accords with the concern expressed by this Congress in section 4(b)(1)(D) of the Emergency Petroleum Allocation Act of 1973, that the competitive viability of small refiners be preserved and enhanced.

A second burden has awaited those small refiners who have sought individual relief from FEA through its exceptions program. They have been subjected to profit margin restrictions placed on no other refiners in the industry, including those receiving subsidies. They have been forced to supply on almost a monthly basis marketing and financial data which are both costly and time consuming to obtain, particularly by the small companies involved here. Also, they have had to forego any rational planning for long-range expenditures—such as refinery expansion—since FEA will not grant exception relief for more than a few months at a time, even in cases in which such relief would make the difference between a company's earning a profit or suffering a loss for the period in question.

Section 403(a) of the Energy Policy and Conservation Act of 1975 corrects these unjust burdens on eligible entitlement purchase obligations by stipulating that the first 50,000 barrels per day of runs need not be "covered" by entitlements. The exemption begins with payments due in December, if the bill is signed this month. It further provides an orderly and open method of deciding whether this relief need be reduced in the future to any eligible refiner or group of refiners. At the same time, the exemption expressly protects small refiner entitlement sellers against any loss of entitlement revenue and assures that these refiners will continue to receive the full benefit of their status as sellers under the entitlements program.

In those instances in which the application of the partial exemption does, in fact, cause a unfair economic or competitive advantage to accrue to benefited refiners, the President may propose an amendment to the exemption. An "unfair economic or competitive advantage certainly does not mean a simple increase in profits or profit margin or a reduction in prices to the customers of benefited refiners. All of us who support this exemption recognize the need for small refiners to remain profitable and we all support reductions in petroleum prices. We do recognize, however, that small refiners could gain an unfair economic or competitive advantage if the direct result of the application of the exemption were a substantial and prolonged shift in market share for refined products to the benefited refiners at the expense of other small refiners.

The conference committee proposal permits an amendment to the partial exemption if its operation seriously impairs the flexibility necessary for the President to attain the objectives of section 4(b)(1) of the EPAA of 1973. Of course, we are all aware that the objectives of section 4(b)(1) are often mutually exclusive and that the exemption may appear to conflict at times with one or more of these objectives. This does not mean, however, that surface conflicts alone warrant the proposal by FEA of frequent amendments to the exemption. On the contrary, the joint explanatory statement of the committee of conference states:

> Here the conference substitute has added a *constraint* on the President's authority to amend the regulation. This constraint, not found in the House amendment, has been included to clarify and make compatible the terms of this section with those contained in new Section 4(e) relating to exemptions from entitlement obligations for certain small refiners. 121 CONGRESSIONAL RECORD pp. 39337-38, 9 December 1975. (Emphasis added.)

The conferees' use of the word "constraint" on the President's authority to amend the exemption signals clearly that the exemption should be given a reasonable trial period and not modified without compelling circumstances. Of course, the most reasonable way for the President to determine if an amendment to the exemption should be proposed would be to make findings after a hearing, on the record, with notice to affected refiners. Thus, the burden of providing that the benefits of this provision should be curtailed to any refiner would shift to the FEA, which would be responsible for making such findings in an orderly and reasonable way. The amendment becomes law unless either House of Congress disapproves it after expedited review. The result of such procedures will be a fair and accessible review arrangement that will protect competition among small refiners in the United States.

Second, I have some additional observations, based on my conversations with the distinguished chairman of the subcommittee, Mr. DINGELL, on section 403. Section 403 of the act, dealing with entitlements, does not define the term "control," although the phraseology seems to come from a very similar control provision in FEA regulations which is subject to FEA's exception rules. I understand that under section 403 the FEA, in each case, will have to decide if a control relationship exists that should require two companies to be treated as a single firm in determining whether they are eligible for the exemption.

Mr. STAGGERS. Mr. Speaker, I think the majority has the right to speak last, so I will yield to the minority.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself 1½ minutes.

Mr. Speaker, the conference report before us today, S. 622, is not the piece of legislation I had hoped last January would be passed by Congress as oil policy law. The fact that 14 of the 32 conferees—all the Republicians and 3 of the 21 Democrats—refused to sign the conference report suggests my view of S. 622 is widely held.

My own preference would have been for legislation that would have gradually, but systematically and predictably, decontrolled the present prices of crude oil and petroleum products and terminated the allocation of all petroleum products by the Federal Energy Administration as soon as possible. This bill does not do that. Instead, it actually reduces prices from their present levels for so-called new oil.

I would have preferred a bill that did not provide for congressional committees to have the right to ask the General Accounting Office to audit the records of private firms in the oil industry from the corner gas station on up.

And I would have preferred to see no standards for fuel efficiency set on the automobile industry so far in advance as 1985, just as I would have preferred to see the Government limit its interests in appliance energy use to labeling and to only advisory assistance on conservation for major energy-consuming industries.

Each time I had the opportunity to work or vote for those specific preferences, I have done so. But I have been in the minority, and the result has been that provisions contrary to my views on those subjects have remained in the legislation.

But when H.R. 7014 left the House for conference with S. 622 and other energy bills which had been passed by the Senate, it had a lot of other very bad provisions in it. Many of these have been deleted in conference. And several other bad provisions of H.R. 7014 with which I took exception as it passed the House have been modified to such an extent that I now find them either acceptable or else not so onerous as to be by themselves sufficient cause to reject this bill. I distributed to my Republican colleagues this weekend a brief comparison of several of the provisions originally in H.R. 7014

when it passed the House in spite of my opposition and the improvements which were made in those provisions in the conference bill, S. 622, we have before us today.

IMPROVEMENTS IN THE CONFERENCE REPORT ON S. 622

First. The 1980 target for appliance energy improvement was reduced from 25 to 20 percent, a target that the great majority of manufacturers have indicated they can readily meet.

Second. Although mandatory automobile fuel efficiency standards through 1985 were retained, significant administrative flexibility to modify the standards was added by the conferees. The 1985 standard of 27.5 miles per gallon can be modified downward to 26 miles per gallon by DOT, and the adjustment in standards that was allowed by the House bill to take account of Federal emission requirements was expanded to also allow adjustments for Federal damageability, safety and noise requirements.

Third. In addition, the mandatory gasoline allocation program, which required by statutory fiat a reduction of U.S. gasoline consumption, was deleted by the conferees.

Other improvements made by the conferees included: Deletion of the Federal lands leasing provisions of the House bill which would have required production and sale within 2 years by mineral leaseholders on Federal lands.

The conferees also modified the comprehensive prohibition on joint ventures by major oil companies with respect to natural resources development to exclude oil shale and coal from the prohibition and to allow exceptions for ventures in high risk or frontier areas.

Finally, the $750 million coal loan guarantee program in the House bill was broadened to include coal from existing as well as new coal mines and to include other than low sulfur coal.

I felt that H.R. 7014 as it passed this House in September was a "turkey," as were S. 622 and the other energy legislation which came from the Senate and with which H.R. 7014 was sent to conference. I had little or no hope for the results of that conference because I felt it was impossible to breed two turkeys and get a swan. But as you know, legislative conferences are even more complicated processes than poultry breeding. While we did not get a swan from our two turkeys, we did get a partridge and—considering the season of the year—that appears to be the best we could have hoped for.

As I said before, the pricing provisions will have the impact for the next year and a half or so of discouraging the production of some domestic oil. But even the pricing provisions in this bill are a substantial improvement over what this House passed in H.R. 7014.

Under the conference report the $7.66 composite price for old and new oil produced in the United States is a substantial reduction from the present $8.63 composite price of domestically produced oil as influenced by the $2 tariff, but not that much of a reduction from the $7.83 composite price of domestically produced oil if the $2 tariff were to be removed, as the conference bill contemplates.

So let me now turn in detail to the most controversial part of this legislation: The pricing section.

What is the extent of that price rollback implied by the composite price of $7.66? If old oil is held at $5.25 per barrel under the S. 622 composite, the actual price allowed for new oil would be $11.28. That is a significant drop—about 18 percent—from the price of new oil on the current domestic market as a result of the $2 tariff. But it is not as significant a drop if one considers the domestic price without the impact of the $2 tariff, estimated at $11.70. The 42 cent difference between $11.70 and $11.28 is only about 4 percent. Under the provisions of S. 622, which permit a 10-percent price escalator annually, that 4 percent price differential will likely be made up within the first year. And beyond that, the administration can submit to Congress an amendment to increase the production incentive every 3 months.

Now I do not argue that new oil producers are happy with that rollback in prices for a year or so. But I do suggest that the rollback may not be too much of a kick in the pants in exchange for the opportunity to end controls after 40 months. Under the price controls in the law under which the Nation is currently operating, it is extremely difficult to raise the price of old oil from $5.25. Under the composite price arrangement of S. 622, it is possible that the price ceiling of old oil might be raised when it became necessary. But even if such action were taken, it is unlikely that such a step would stimulate additional domestic production over the next year or so, especially due to the long lead time required by the industry to develop new resources. But at the end of 2 years, the prices under S. 622 will be back to the current levels and the oil industry, no longer hampered by uncertain pricing policy, should be able to plan for expanded production.

Had I had my way, the gradual decontrol provisions of S. 622 would have started from the present composite price level and not from a rollback position. I offered a motion to that effect in conference and was defeated. So this is the best we could have gotten out of the conference. We now have another alternative—to vote down the previous question and to accept the amendment of the gentleman from Louisiana. If we do not do that I do not believe our Democratic colleagues in the Congress—particularly some who are embroiled in seeking the Presidency—are going to give us either an extension of present controls or some gentler decontrol arrangement initiated by the present occupant of the White House. We are too close to an election year for such bipartisan statesmanship.

So let us look at the impact of immediate decontrol, if you do not like this conference report. Under immediate decontrol, $5.25 oil—most of it in the hands of the major oil companies—will immediately go to the domestic market price, $13.70 with the $2 tariff, or $11.70 without it. But for our decontrol assumptions, let us use the $11.70 figure for all old oil and for all new oil produced in the United States and the $13 price for the foreign oil which will be needed to satisfy U.S. consumption demands. That means the blend price of foreign and domestic crude or average price of all oil sold in the United States will jump from $10.63, where it is now, to $12.12—an increase of $1.49. Since it is possible to get 42 gallons of gasoline from a barrel of oil, that means gasoline prices will go up from 3.5 to 6 cents per gallon, depending on the impact of natural gas liquids and whether or not present banked costs are passed through. Of course, these price increases will be felt first this winter in the prices of heating oil and propane because the gasoline market is now soft while the demand for heating oil is greatest. Then, when the driving season begins next summer, the impact of crude oil price increases will hit gasoline prices hardest.

The political impact of higher prices must be weighed by each Member against the need for return to a market without Federal controls in order to stimulate domestic production. The President has suggested that such a return to market prices be made gradually. We had a vote in the House on his proposal for such a phased decontrol plan over 39 months. Our concern then, and mine now, is about the impact of decontrol on an economy recovering from recession. I will not try to assess that except to suggest that I feel it is a valid concern.

There is another impact worthy of consideration, too. The profits of oil companies are likely to be sharply higher after total decontrol. If decontrol is immediate, the public reaction will begin to be felt when those profits are reported next summer and fall. Sharp increases in profits at that time are sure to revive the suggestion that oil companies should be broken up and divested of their marketing or refining facilities. Such legislation would be most unwise at a time when America is striving for energy independence and when large accumulations of capital are needed to develop new oil sources. But politically, a more gradual accumulation of that capital requirement may be wiser.

Another public reaction very well could be to force a burdensome windfall profits tax on the industry in the same way the depletion allowance was removed during reaction to the last temporary surge of oil company profits. The largest oil companies might be able to sustain such reactionary legislation because they have the most old oil. But independents, who are the producers of new oil, could very well be destroyed by such legislation.

In conclusion, let me say again that this conference legislation is not what I would have produced were I in the position to write the conference bill. But I have always maintained the position of working for the best possible legislation and I say without any hesitation that this is better legislation than I expected to come out of the conference when I voted—and asked my colleagues to vote—against H.R. 7014. This bill is no swan.

But it is not the turkey some would have us believe and could be much improved by the amendment of the gentleman from Louisiana.

Let me also note that we have been at this chore for 11 months now. I have come to feel like the mythological Greek, Sisyphus, who was condemned to rolling the great rock up that hill in Hades, only to have it slip when he got it close to the top and roll to the bottom again where he had to start over. The people at home are tired of our lack of success at getting oil policy legislation. They do not want that rock to roll to the bottom of the hill again and see us start over. This bill may not be exactly the right answer to the oil problem, but with the Waggonner amendment it may very well be the best answer that can be obtained, given the political realities that exist between a Republican President and a 2-to-1 Democratic Congress where every 40th Member is himself a candidate for President.

On several different occasions throughout the consideration of H.R. 7014, I expressed my interest in obtaining a compromise between the views of our President and this Congress so that we could eventually get an energy policy that would serve our national interest. While compromise never satisfies strong philosophical views, compromise is the essence of the legislative process. I have had the opportunity to express my strong philosophical views and I feel, perhaps immodestly, that my expression of these views has been helpful in winning significant improvement in this legislation—if not always a majority for my philosophical position.

So, though this bill still has some major flaws, the time has come for me to weigh my own philosophy, what is best for the Nation in the long run—even if it may not be that good in the short run—and what will be least harmful to the economy and best for my own district. Not all these considerations point to the same conclusion. And they will point in different directions for different colleagues. I will vigorously support the Waggonner amendment, but should it fail, for me, these considerations lead me to the close decision that I should vote for the conference report even though I did not sign it. I believe it is the best we could have done and I see little or no likelihood we will be given the opportunity to do better. So the choice I see is between this bill and immediate decontrol; and between those two choices, I prefer this bill—marginally.

The SPEAKER. The gentleman from West Virginia is recognized for 4 minutes.

Mr. STAGGERS. Mr. Speaker, the conferees on the part of the House have concluded work, and I believe, we have faithfully fulfilled our responsibility to bring back to this House a compromise bill which embodies a comprehensive national energy program.

Let me say at the outset, I am not personally satisfied with every aspect of this legislation. The final conference agreement does not reflect my personal opinion, nor does it represent the viewpoint of any single member of the conference. We have made every effort to define a policy upon which Congress and the President can agree. In this regard, throughout our deliberations, we tested our agreements with representatives of the President. We have been assured that the legislation which we present to the House today will be accepted by the President. The President's own energy adviser, Mr. Frank Zarb, Administrator of the Federal Energy Administration, has endorsed the conference substitute and recommended signature. I am optimistic, therefore, that the long and difficult task of developing a national energy policy will soon be concluded.

I will soon yield to the gentleman from Michigan, my colleague on the conference, to discuss more fully the terms of the conference agreement. But first I would like to comment briefly on the oil pricing policy evolved by your conferees.

Certainly the questions related to oil pricing were the most difficult presented to the conferees. Repeatedly, the Congress has been urged to remove price controls as a means of reducing this Nation's vulnerability to the OPEC nations. But, by removing price controls, we would, in turn, subject our entire economy to the whim and caprice of the OPEC pricing cartel. Surely this is a case where the cure would be worse than the disease of import dependency.

The conference substitute seeks to restore reason to petroleum prices. The objective is to stabilize the pricing system through the next 40 months at levels which are within the bounds of the consumers' ability to pay and producers' requirements to maximize investment in oil and gas production. The conferees believe that the price mechanism established in this legislation—which contemplates an initial domestic composite price of $7.66 per barrel increasing throughout the term of the 40-month program—strikes a proper balance between consumer and producer interests—a balance which the marketplace is unable to achieve because of the paralyzing influence of the OPEC cartel.

When this legislation was considered in the House, we attempted to assign different prices to various classifications of domestic production. Critics raised the objection that we had not properly taken into consideration the various costs and risk factors associated with the chosen classifications nor had we properly pegged the ceiling price at rational levels. Others contended that, in an attempt to finally tune the pricing provisions, we had created a program so complicated as to be incapable of being rationally administered. The conference substitute successfully avoids these liabilities. Instead, we leave to the discretion of the President, the administration of the price control authority, to create as many classifications of domestic production as he determines will optimize domestic production and be administratively feasible.

The President's administrative discretion is tethered in two primary respects. First, the President must establish ceiling prices at levels sufficient to result in a weighted average first sale price for domestic production which is equal to or less than a maximum allowable price fixed in the statute. Second, before the President allows any increase in the price for old oil above its current levels, he must specifically find that the increase is likely to produce greater levels of production than would otherwise occur.

In short, with some exception, the conferees have granted a significant measure of administrative discretion to the President to construct a rational pricing program throughout the next 40-month period. It seems to me this is a more appropriate way to legislate, rather than attempting to fill legislation with regulatory detail which has the tendency to become rigid and unresponsive to changing circumstances. The conferees expect that the President will use this discretion wisely and I can assure my colleagues that the Committee on Interstate and Foreign Commerce will take appropriate steps in the exercise of its oversight responsibilities to assure that a proper and sensible regulatory program will evolve from the authority hereby conferred on the President.

Mr. Speaker, there has been a lot of talk about the President maybe signing the bill. I will tell this House that during all the deliberations of that conference, we had consultations every day with the President's representatives. We had assurances from them that if we went along and did not all the things, but most of them, that we would have a Presidential signature.

Mr. Speaker, I think the President of the United States is a man of his word and that he had his intermediates talking to us each day and he made that statement and he said he will sign this. I have no question in my mind he will do it.

Mr. Zarb has said publicly he will recommend that the President sign this bill. I think all the rest of his representatives will see to that. We all took part in that in the Senate and the House and the administration each day, every day, and they were in on this.

This has many other things in the bill besides just pricing.

It has conservation, it has further plans for conservation. It has the use of coal and other fuels in place of our crude oil. It has a strategic reserve which we do not have today, making it unlikely that we will ever again be at the mercy of a foreign power. At the end of several years, we will have a billion barrels of oil in strategic reserve.

Do the Members want to knock that out? Do they want to go home to their constituents and say, "I voted against energy for America"? If they do, and give the constituents a Christmas present like that, I do not believe there will be a lot of us coming back.

I do not think that most of us want to do that, and a vote against the previous question will do just that. We will be once again in the hands of the OPEC nations, who will dictate to us.

This has in it a conservation measure so that automobiles must raise their mileage. It also has measures on appliances and many other features of the

bill that have never been mentioned once, that are so important to this land. If we want to see America go down on its knees again to the OPEC nations, then vote against the previous question. If we want to see an independent nation, then vote for the previous question and we will bring something in that we can depend upon in America in our own right, and not depend upon somebody else abroad.

I would not dare go back to my district and say that I voted against energy. They would run me out. They would not only say, "We will not vote for you the next time," but they would say, "We do not want you around" and a lot of other Members would have the same experience, because energy is the most important thing there is in this land today, and it has been the most misused and abused thing in this country.

Today in my hometown there is more gasoline than they ever had in their history. They are trying to get dealers to sell more and to stay open on Sundays to sell gasoline. I say that for the good of America each and every one of us ought to make up his own mind and vote for what he thinks is right and not for what someone else tells him what his vote should be.

We have an energy plan. If we do not have this, we will not have one and there will not be any time to get one. The law goes out of existence tonight, and it will go wild then, and who is to blame? I think they will be pointing at those who voted against the previous question and saying, "You were the ones that brought chaos into the Nation." I do not want to be one of those, and I urge that the vote ought to be yea on the previous question.

Mr. PREYER. Mr. Speaker, I am pleased by that part of the text recommended by the conference report to accompany S. 622 which adds a new section 11 to the Emergency Petroleum Allocation Act of 1973 and which deals with the regulation which the 1973 act mandated the President to issue under section 4(a). The new section 11 will require the President to "promulgate, pursuant to the limitations and authority under section 12, such amendment, or amendments, to the regulation promulgated under section 4(a) as he determines are necessary or appropriate—first, to modify any provisions of such regulation in a manner which is consistent with the attainment, to the maximum extent practicable, or objectives specified in section 4(b)(1); or second, to eliminate any provisions of such regulation no longer necessary to provide for the attainment of such objectives." Presidential action would follow a hearing procedure which would allow interested parties to comment on the operation of the existing regulation.

My interest in this section results from my concern that the existing regulation works to stifle competition although the law, and the clear congressional intent, requires FEA to "restore and foster competition."

The relevant section, section 4(b)(1) of the 1973 act, says that the regulation shall provide for—

(D) preservation to an economically sound and competitive petroleum industry; *including the priority needs to restore and foster competition* in the producing, refining, distribution, *marketing*, and petrochemical sectors of such industry, and to preserve the competitive viability of independent refiners, small refiners, nonbranded *independent marketers*, and branded independent marketers; (emphasis added).

However, one section of the regulation now in effect, section 211.63, does precisely the opposite, and would appear to lock in a monopoly of wholesale marketers while keeping out new competitors. Until recently—November 24—this regulation said:

All supplier/purchaser relationships in effect under contracts for sales, purchases and exchanges of domestic crude oil on December 1, 1973, shall remain in effect for the duration of this program. . . .

Thus, the regulation requires producers to continue sales to the same marketers with whom they were doing business on December 1, 1973, and prohibits new crude oil marketers from purchases which would disturb these relationships. No provision is made by which new crude oil marketing companies may obtain supply sources. Competition is denied.

The effect of this is to freeze in, protect and perpetuate a monopoly. Data filed by one of these companies with the SEC reveals an enlargement of profits under the challenged regulation which resulted in those profits jumping from $19 million in 1973 to $59 million in 1974. Per barrel profits had a corresponding increase.

The U.S. District Court for the western district of Texas, San Antonio Division, in a decision October 6, 1975, captioned *Basin, Inc.* v. *Federal Energy Administration*, Civil Action No. 75–CA 250, issued a preliminary injunction against FEA. It ruled:

There is a substantial question as to whether section 211.63 of the regulations, insofar as it denies plaintiff as a crude oil marketing company the right to purchase crude oil and makes no provision for allocation of supply purchased by the crude oil marketing industry on a fair and equitable basis among the members of that industry is in compliance with the Congressional mandate of the Emergency Petroleum Allocation Act of 1973 to restore, foster, and preserve competition in all segments of the petroleum industry. . . .

The court found that as a result "the plaintiff will in all likelihood be forced to discontinue its business." Clearly free enterprise competition was not being served by the regulation in the court's mind and an independent business was threatened by the enforcement of a regulation which this Congress did not anticipate in its 1973 act and which is contrary to the intent of the Congress in encouraging competition.

The FEA appealed that decision and amended its regulations.

On the eve of the argument in the Court of Appeals, after months in which FEA acknowledged inequity in the existing regulation, the new regulation was published. The announcement identified the purpose of the new regulation as "to allow for the new entry into the business of marketing crude oil"—conceding the inequity the court had already found. However, the new language then negated the impact it should have afforded by requiring as a condition to the establishment of a new supplier-purchaser relationship that the new wholesale marketer obtain from the refiner "their written consent to the proposed supplier substitution." Commonsense tells us that few refiners, if any, would want to consent to the substitution. He already has a relationship with the entrenched large operator who is protected by the FEA regulations and the refiner would not imperil that arrangement by telling the marketer to stop selling to the refiner, move over and give up part of the business to the little competitor. All the competition the 1973 law envisioned is undone by a telephone call between the parties to the existing relationship. It would appear that the new regulation might become an invitation to collusion and clearly violates the spirit of the statutory mandate for competition.

The joint explanatory statement of the conference committee on the bill which became the Emergency Petroleum Allocation Act of 1973, said of section 4(b):

It is imperative that the Federal Government now accept its responsibility to intervene in this marketplace to *preserve competition* and to assure an equitable distribution of critically short supplies. Toward this end, the conference substitute requires the President to promptly implement a mandatory allocation program which *must be drafted so as to accomplish Congressionally defined objectives*. These are set out principally in section 4(b) of the conference substitute. Very generally stated they establish guidelines for the priority uses of fuels covered by this Act and set forth standards of action concerning the competitive structure of the industry and general economic policy to be followed in the establishment of the fuel allocation program. (Italics added.)

The history of the efforts of smaller, independent marketers to engage in the kind of competition mandated by the 1973 law is best told in the San Antonio decision. The FEA regulation does not foster competition; it stifles it. The new regulation offers no real change.

The new section 11 is the best hope we presently have for a real change. It is our best hope for the kind of competition the Congress intended in 1973 and which it must reaffirm today.

Mr. HANNAFORD. Mr. Speaker, I rise in most reluctant opposition to the conference report on S. 622. The chairman and his committee have labored so long on this legislation and the conferees have worked so diligently that I regret having to urge rejection of all their efforts, but in my judgment the oil pricing section of the bill simply will not work. I know that it will not work for some of the production in my district and elsewhere in the State of California. If it will not work in California it probably will not work in many other places.

The pricing of oil is, in my judgment, too complex an undertaking for the hand of mortal man. Out of concern for the shock to the economy I would not propose a sudden lifting of controls, however. But if control temporarily we must, those controls should not be so strin-

gent as to discourage exploration and even shut in existing production. In my judgment the controls in this bill may do both, reduce present production and discourage exploration. We should, therefore, raise the limitations while the phaseout of controls takes place and should apply windfall profits taxes to encourage profits to be plowed into exploration. It would be better to err on the high side in this case and I fear this legislation errs on the low side.

Mr. Speaker, this is an infinite number of prices of oil based on production costs, and it is impossible to administer such a complex matter without making grievous mistakes.

Consider the situation in my district and in California. The city of Long Beach that I represent gets a reduced price of $4.19 for its heavy gravity crude. That price no longer pays for the cost of production and we are now shutting in wells; 2,700 barrels per day of production have already been stopped in the city of Long Beach. Much more production is on the verge of being shut in. Within a year 115,000 barrels per day will have been lost if present regulations prevail. Once these wells are shut in, in most cases they are gone forever for various technical and economic reasons. Understand I am saying we are pouring concrete in producing wells a $4.19 per barrel in California and buying replacements from overseas at $14. That does not make sense, Mr. Speaker, and I am afraid this legislation before us may do more of the same.

I do not know, my colleagues, how much the price of oil needs to be; but I do know how much oil we need. We need all we can get.

And when we have a pricing program that is resulting in producing wells being forced to discontinue production, it makes no sense to adopt a more stringent pricing system as this legislation does, though in the short term.

Mr. Speaker, I urge a "no" vote on the conference report.

Mr. HOWE. Mr. Speaker, for 2 years we have debated the issues of the energy problem with the intent to formulate a national program of energy conservation and development. We have discussed the benefits of "price-controls" and "no price controls," "old oil" and "new oil," "fast" and "slow" deregulation. We have considered testimony, reports, and statements from every sector of our country and now—2 years after we first faced the lineups at the corner service station—we are still without a national energy policy.

It is no wonder the American public is disconcerted over this issue. It doesn't take a President of the United States to realize the gravity of this problem—just ask a housewife who buys for her family, or a father who pays the utility bills, or a student who commutes to campus each day. Clearly, the issues that have impeded the adoption of a comprehensive program of energy development and conservation should have been resolved long before now. By approving the conference report to the Energy Policy and Conservation Act, we can, in my opinion, present the American people with an energy program that marks our commitment to energy independence. It is a beginning.

Fortunately, we have made, in this session, significant headway toward the achievement of energy self-sufficiency. On June 19, the House of Representatives passed the Energy Conservation and Conversion Act which pioneered our policy by mandating oil import quotas, auto efficiency standards, and a reduction in the industrial use of petroleum. We have passed the national petroleum reserves bill, which allows drilling and production in the Elk Hills and other fields previously reserved for military use only. Most importantly, the House passed on September 23 the Energy Conservation and Oil Policy Act. This bill, before the House today with amendments and a new title—Energy Policy and Conservation Act—recommended by conferees, is the cornerstone of our national energy policy. It includes provisions to improve competition within the energy industry, encourage coal-conversion research and application, improve auto efficiency, encourage industry and appliance energy conservation, and extend oil price controls on domestic crude oil, pending a gradual phaseout over a period of time.

In these bills we have underscored the pressing need to reduce our dependency on foreign oil by adopting strict energy conservation measures and developing alternative sources of energy. In my view, this twofold approach is the key to directing our energy policy away from oil consumption. In other legislation we have directly moved to encourage the development of alternative sources of energy; namely, oil shale, synthetic fuels, solar, nuclear, and geothermal power. We have passed the Energy Research and Development Administration authorization bill which would boost research efforts on all energy forms by $1 billion in fiscal year 1976. Also, we have passed legislation that aids the development of electric vehicles.

Recognition of our Nation's energy needs has revived interest in the potential of our vast coal resources. The U.S. recoverable coal supplies are more than double the equivalent oil reserves in all the Middle Eastern countries. I believe we must make every effort to utilize the enormous energy resource available in our coal reserves. In accord with this view, I have supported provisions in the major energy bills that provide loan guarantees to small coal operators, encourage coal conversion in industry, support the development of coal gasification and liquefaction processes. Furthermore, we have completed consideration in the House Interior and Insular Affairs Committee on H.R. 6721, the Federal Coal Leasing Amendments Act of 1975. This bill would step up coal production on Federal lands by requiring the diligent and planned development of these resources. I urge my colleagues to support this measure when it reaches the floor and thereby favor a necessary and positive step in our effort to achieve energy independence.

As we all know, much attention has been focused on the impasse between the President and Congress over the issue of the decontrol of "old oil" prices—pre-1972 domestic oil controlled at $5.25 per barrel. I have not generally supported the President's proposals because they tend to place the burden of fighting the energy battle on the consumer. Estimates indicate that the President's original plan, which called for immediate decontrol under a market situation where new domestic and foreign oil was selling at $13.50 per barrel, would cost the economy $40 billion in the first year, increase the consumer price index 5.4 percent by the end of 1976, and cost 700,000 jobs. All of this would add about $800 to the yearly cost of living in the average household. Fortunately, Congress and the American public, after seeing the economic folly of immediate decontrol, did not swallow the President's approach.

After reconsideration the President then suggested a 30-month decontrol plan and later a 39-month proposal. As a matter of compromise and concern over the timely need to adopt a national energy policy, I supported the President's 39-month plan. I prefer, however, the gradual decontrol arrangement adopted in the conference report to the Energy Policy and Conservation Act which sets a $7.66 per barrel composite price for all domestic oil, provides pricing flexibility for "high cost" new oil, and phases out controls over a 40-month period. I believe we are, in these provisions, looking at a policy of equity to both producers and consumers that could provide the core of any national energy policy. In addition, witnesses who testified before Congress, including oil company officials, agreed that a level near $7.50 is sufficiently high to cover the cost of production and provide exploration incentive.

As we all know, any consideration of the oil price issue must include recognition of our need to expand the domestic production of oil. Some believe that we should, in an effort to raise exploration capital, have no price controls and thereby allow the market to determine the price of oil. As a proponent of the free market concept and an opponent of all unnecessary Federal controls, I would quickly join those voicing this position if, in fact, a free and open market situation existed in the oil industry. But, under existing circumstances, petroleum prices are artificially set at high levels by the oil exporting countries. Therefore, I have favored an extension of the Emergency Petroleum Allocation Act until an acceptable gradual decontrol arrangement is adopted. Accordingly, I was disappointed to see the President veto our legislation that would have provided a temporary 6-month extension of controls beyond the August 30 expiration date. In my opinion, this action, coupled with his reluctance to accept congressional oil pricing provisions, appears to represent a continuation of his sanction for immediate decontrol. Clearly, I cannot support a policy that would require the American consumer to subsidize the cartel-marketing policies of the oil exporting countries.

On the subject of oil exploration, it appears to me that petroleum prices that have generated record revenues and

profits for major oil companies are sufficiently attractive to encourage capital investment in exploration efforts. I would suggest to an industry enjoying preferential tax treatment and the ability to internally finance most of its operations that it look to sources other than the American consumer for capital. I believe oil executives could perform their companies and the public a timely service by increasing their participation in traditional capital markets, a practice common to most American enterprises. I think the energy crisis requires everyone to review his commitment to a true resolution of the problems hindering the achievement of national energy independence.

The course is clearly before us and we have no choice but to promptly resolve those issues preventing the adoption of a viable energy program. I believe that we can determine an equitable price for our domestic oil supplies; that we can become an energy-conscious people; and that we can develop fully our vast energy resources. Approval of the conference report to the Energy Policy and Conservation Act will help to move this Nation toward our goal of energy independence and I urge my colleagues to join me in support of this legislation.

The SPEAKER. The question is on ordering the previous question.

PARLIAMENTARY INQUIRY

Mr. BROWN of Ohio. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BROWN of Ohio. Mr. Speaker, if the previous question is voted down, then there is no vote on the issue raised by the gentleman from West Virginia (Mr. STAGGERS), and the time goes to the gentleman from Louisiana (Mr. WAGGONNER) for a motion, as I understand. Now, the vote to accomplish that would be a "no" vote, is that correct?

The SPEAKER. A vote against the previous question will permit an amendment to be offered to the pending motion.

Mr. BROWN of Ohio. I thank the Speaker.

The SPEAKER. The question is on ordering the previous question on the motion offered by the gentleman from West Virginia.

Mr. O'NEILL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 215, nays 179, answered "present" 1, not voting 39, as follows:

[Roll No. 788]

YEAS—215

Abzug	Boland	Conyers
Alexander	Bolling	Corman
Allen	Bonker	Cornell
Ambro	Brademas	Cotter
Ashley	Breckinridge	D'Amours
Aspin	Brodhead	Danielś, N.J.
Badillo	Brown Calif.	Danielson
Baldus	Burke, Calif.	Davis
Barrett	Burke, Mass.	Delaney
Baucus	Burlison, Mo.	Dellums
Beard, R.I.	Burton, Phillip	Dent
Bedell	Carney	Derrick
Bennett	Carr	Dingell
Bergland	Carter	Dodd
Bevill	Chisholm	Downey, N.Y.
Biester	Clancy	Drinan
Bingham	Clay	Early
Blanchard	Cohen	Eckhardt
Blouin	Conte	Edgar
Edwards, Calif.	Litton	Randall
Eilberg	Lloyd, Calif.	Rangel
Evans, Colo.	Lloyd, Tenn.	Rees
Evans, Ind.	Long, Md.	Reuss
Evins, Tenn.	McCormack	Richmond
Fary	McDade	Rinaldo
Fascell	McFall	Rodino
Fenwick	McHugh	Roe
Fisher	Macdonald	Rogers
Fithian	Madden	Rooney
Flood	Maguire	Rose
Florio	Mann	Rosenthal
Foley	Matsunaga	Rostenkowski
Ford, Tenn.	Mazzoli	Roush
Fountain	Meeds	Roybal
Fuqua	Meyner	Ryan
Giaimo	Mezvinsky	Santini
Gilman	Mikva	Sarbanes
Gude	Miller, Calif.	Scheuer
Hall	Mineta	Schroeder
Hamilton	Minish	Seiberling
Hanley	Mink	Sharp
Harkin	Mitchell, Md.	Sikes
Harrington	Moakley	Smith, Iowa
Harris	Moffett	Snyder
Harsha	Mollohan	Solarz
Hawkins	Moorhead, Pa.	Spellman
Hayes, Ind.	Morgan	Staggers
Hays, Ohio	Moss	Stanton,
Hechler, W. Va.	Mottl	James V.
Heckler, Mass.	Murphy, Ill.	Stark
Hefner	Murphy, N.Y.	Stokes
Heinz	Murtha	Stratton
Helstoski	Natcher	Studds
Henderson	Neal	Sullivan
Hicks	Nedzi	Taylor, N.C.
Holtzman	Nix	Traxler
Howard	Nolan	Tsongas
Howe	Nowak	Ullman
Hubbard	Oberstar	Van Deerlin
Hughes	Obey	Vander Veen
Jeffords	O'Hara	Vigorito
Johnson, Calif.	O'Neill	Weaver
Jones, Tenn.	Ottinger	Whalen
Jordan	Patten, N.J.	Wirth
Karth	Patterson,	Wolff
Kastenmeier	Calif.	Wylie
Keys	Pattison, N.Y.	Yates
Koch	Pepper	Yatron
Krebs	Perkins	Young, Ga.
LaFalce	Pike	Zablocki
Leggett	Pressler	Zeferetti
Lehman	Preyer	
Levitas	Price	

NAYS—179

Abdnor	Eshleman	McClory
Anderson,	Findley	McCloskey
Calif.	Fish	McCollister
Anderson, Ill.	Flowers	McDonald
Andrews,	Flynt	McEwen
N. Dak.	Forsythe	McKay
Archer	Frenzel	Madigan
Armstrong	Frey	Mahon
Ashbrook	Gibbons	Martin
AuCoin	Ginn	Melcher
Bafalis	Goldwater	Michel
Bauman	Gonzalez	Milford
Beard, Tenn.	Goodling	Miller, Ohio
Boggs	Gradison	Mills
Bowen	Grassley	Mitchell, N.Y.
Breaux	Hagedorn	Montgomery
Brinkley	Haley	Moore
Brooks	Hammer-	Moorhead,
Broomfield	schmidt	Calif.
Brown, Ohio	Hannaford	Mosher
Broyhill	Hansen	Myers, Ind.
Buchanan	Hastings	Myers, Pa.
Burgener	Hightower	Nichols
Burleson, Tex.	Hillis	O'Brien
Butler	Holland	Passman
Byron	Holt	Patman, Tex.
Casey	Horton	Pettis
Cederberg	Hungate	Pickle
Chappell	Hutchinson	Poage
Clausen,	Hyde	Pritchard
Don H.	Ichord	Quie
Clawson, Del	Jacobs	Quillen
Cleveland	Johnson, Colo.	Railsback
Cochran	Johnson, Pa.	Regula
Collins, Tex.	Jones, Ala.	Rhodes
Conable	Jones, N.C.	Risenhoover
Conlan	Jones, Okla.	Roberts
Crane	Kasten	Robinson
Daniel, Dan	Kazen	Roncalio
Daniel, R. W.	Kelly	Rousselot
de la Garza	Kemp	Runnels
Derwinski	Ketchum	Ruppe
Devine	Kindness	Sarasin
Downing, Va.	Krueger	Satterfield
Duncan, Oreg.	Lagomarsino	Schneebeli
Duncan, Tenn.	Landrum	Schulze
du Pont	Latta	Sebelius
Edwards, Ala.	Lent	Shipley
English	Long, La.	Shriver
Erlenborn	Lott	Shuster
Esch	Lujan	Sisk
Skubitz	Symms	Whitten
Slack	Talcott	Wiggins
Smith, Nebr.	Taylor, Mo.	Wilson, Bob
Spence	Thone	Wilson, Tex.
Stanton,	Thornton	Winn
J. William	Treen	Wright
Steed	Waggonner	Wydler
Steelman	Walsh	Young, Alaska
Steiger, Ariz.	Wampler	Young, Fla.
Steiger, Wis.	White	Young, Tex.
Stephens	Whitehurst	

ANSWERED "PRESENT"—1

Brown, Mich.

NOT VOTING—39

Adams	Ford, Mich.	Riegle
Addabbo	Fraser	Russo
Andrews, N.C.	Gaydos	St Germain
Annunzio	Green	Simon
Bell	Guyer	Stuckey
Biaggi	Hébert	Symington
Burke, Fla.	Hinshaw	Teague
Burton, John	Jarman	Thompson
Collins, Ill.	Jenrette	Udall
Coughlin	McKinney	Vander Jagt
Dickinson	Mathis	Vanik
Diggs	Metcalfe	Waxman
Emery	Peyser	Wilson, C. H.

The Clerk announced the following pairs:

On this vote:

Mr. Annunzio for, with Mr. Hébert against.

Mr. St Germain for, with Mr. Brown of Michigan against.

Mr. Addabbo for, with Mr. Burke of Florida against.

Mr. Thompson for, with Mr. Dickinson against.

Mr. Biaggi for, with Mr. Guyer against.

Mr. Green for, with Mr. Teague against.

Mr. Russo for, with Mr. Hinshaw against.

Mr. John L. Burton for, with Mr. Bell against.

Mr. Ford of Michigan for, with Mr. Vander Jagt against.

Mr. Waxman for, with Mr. Jarman against.

Until further notice:

Mr. Riegle with Mr. Simon.

Mr. Stuckey with Mr. Udall.

Mr. Vanik with Mr. Fraser.

Mr. Adams with Mr. Andrews of North Carolina.

Mr. Diggs with Mr. Jenrette.

Mr. Metcalfe with Mr. Charles H. Wilson of California.

Mr. Mathis with Mr. Symington.

Mr. Emery with Mr. Coughlin.

Mr. DINGELL changed his vote from "nay" to "yea."

Messrs. PATMAN and HANNAFORD changed their votes from "yea" to "nay."

Mr. BROWN of Michigan. Mr. Speaker, I have a live pair with the gentleman from Rhode Island (Mr. ST GERMAIN). If he had been present, he would have voted "yea." I voted "nay." I withdraw my vote and vote "present."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the motion offered by the gentleman from West Virginia (Mr. STAGGERS).

PARLIAMENTARY INQUIRY

Mr. BROWN of Ohio. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. BROWN of Ohio. Mr. Speaker, do I understand that if this motion passes, there is no vote on a conference report and that this in effect is a vote on the conference report? Is that correct?

The SPEAKER. The gentleman is correct.

PARLIAMENTARY INQUIRY

Mr. WAGGONNER. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. WAGGONNER. Mr. Speaker, in answering the parliamentary inquiry propounded by the gentleman from Ohio (Mr. BROWN), the Speaker said this was in effect a vote on the conference report. Mr. Speaker, it would be more accurate to say that we cannot have a final vote on the conference report. If the motion offered by the gentleman from West Virginia (Mr. STAGGERS) is adopted, it goes to the Senate and if the Senate adopts the House version it then goes to the President.

The SPEAKER. The Chair will state that that is not a parliamentary inquiry. The gentleman from Louisiana (Mr. WAGGONNER) is making a speech and the gentleman has made several speeches already.

The question is on the motion offered by the gentleman from West Virginia (Mr. STAGGERS).

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BROWN of Ohio. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 236, nays 160, answered "present" 1, not voting 37, as follows:

[Roll No. 789]

YEAS—236

Abzug	Early	Keys
Alexander	Eckhardt	Koch
Allen	Edgar	Krebs
Ambro	Edwards, Calif.	LaFalce
Ashley	Eilberg	Leggett
Aspin	Evans, Colo.	Lehman
AuCoin	Evans, Ind.	Lent
Badillo	Evins, Tenn.	Levitas
Baldus	Fary	Litton
Barrett	Fascell	Lloyd, Calif.
Baucus	Fenwick	Lloyd, Tenn.
Beard, R.I.	Fish	McCormack
Bedell	Fisher	McDade
Bennett	Fithian	McFall
Bergland	Flood	McHugh
Bevill	Florio	McKinney
Biester	Flowers	Macdonald
Bingham	Foley	Madden
Blanchard	Ford, Tenn.	Madigan
Blouin	Fountain	Maguire
Boland	Fuqua	Mann
Bolling	Giaimo	Matsunaga
Bonker	Gilman	Mazzoli
Brademas	Grassley	Meeds
Breckinridge	Gude	Meyner
Brodhead	Hall	Mezvinsky
Brown, Calif.	Hamilton	Mikva
Brown, Ohio	Hanley	Miller, Calif.
Burke, Calif.	Harkin	Mineta
Burke, Mass.	Harris	Minish
Burlison, Mo.	Harsha	Mink
Burton, Phillip	Hawkins	Mitchell, Md.
Carney	Hayes, Ind.	Mitchell, N.Y.
Carr	Hays, Ohio	Moakley
Carter	Hechler, W. Va.	Moffett
Chappell	Heckler, Mass.	Mollohan
Chisholm	Hefner	Moorhead, Pa.
Clay	Heinz	Morgan
Cleveland	Helstoski	Moss
Cohen	Henderson	Motti
Conte	Hicks	Murphy, Ill.
Conyers	Hillis	Murphy, N.Y.
Corman	Holtzman	Natcher
Cornell	Horton	Neal
Cotter	Howard	Nedzi
Coughlin	Howe	Nichols
D'Amours	Hubbard	Nix
Daniels, N.J.	Hughes	Nolan
Danielson	Hyde	Nowak
Delaney	Jacobs	Oberstar
Dellums	Jeffords	Obey
Dent	Johnson, Calif.	O'Hara
Derrick	Jones, Ala.	O'Neill
Dingell	Jones, N.C.	Ottinger
Dodd	Jones, Tenn.	Patman, Tex.
Downey, N.Y.	Jordan	Patten, N.J.
Drinan	Karth	Patterson, Calif.
Duncan, Oreg.	Kastenmeier	Pattison, N.Y.
Pepper	Roybal	Studds
Perkins	Ruppe	Sullivan
Pike	Ryan	Taylor, N.C.
Pressler	Santini	Thone
Preyer	Sarasin	Traxler
Price	Sarbanes	Tsongas
Randall	Scheuer	Ullman
Rangel	Seiberling	Van Deerlin
Rees	Sharp	Vander Veen
Regula	Sikes	Vigorito
Reuss	Smith, Iowa	Weaver
Richmond	Snyder	Whalen
Rinaldo	Solarz	Whitten
Rodino	Spellman	Wirth
Roe	Staggers	Wolff
Rogers	Stanton, J. William	Wylie
Rooney	Stanton, James V.	Yates
Rose	Stark	Yatron
Rosenthal	Stokes	Young, Ga.
Rostenkowski	Stratton	Zablocki
Roush		Zeferetti

NAYS—160

Abdnor	Ginn	Myers, Ind.
Anderson, Calif.	Goldwater	Myers, Pa.
Anderson, Ill.	Gonzalez	O'Brien
Andrews, N. Dak.	Goodling	Passman
Archer	Gradison	Pettis
Armstrong	Hagedorn	Pickle
Ashbrook	Haley	Poage
Bafalis	Hammer-schmidt	Pritchard
Bauman	Hannaford	Quie
Beard, Tenn.	Hansen	Quillen
Boggs	Harrington	Railsback
Bowen	Hastings	Rhodes
Breaux	Hightower	Risenhoover
Brinkley	Holland	Roberts
Brooks	Holt	Robinson
Broomfield	Hungate	Roncalio
Broyhill	Hutchinson	Rousselot
Buchanan	Ichord	Runnels
Burgener	Johnson, Colo.	Satterfield
Burleson, Tex.	Johnson, Pa.	Schneebeli
Butler	Jones, Okla.	Schroeder
Byron	Kasten	Schulze
Casey	Kazen	Sebelius
Cederberg	Kelly	Shipley
Clancy	Kemp	Shriver
Clausen, Don H.	Ketchum	Shuster
Clawson, Del	Kindness	Sisk
Cochran	Krueger	Skubitz
Collins, Tex.	Lagomarsino	Slack
Conable	Landrum	Smith, Nebr.
Conlan	Latta	Spence
Crane	Long, La.	Steed
Daniel, Dan	Long, Md.	Steelman
Daniel, R. W.	Lott	Steiger, Ariz.
Davis	Lujan	Steiger, Wis.
de la Garza	McClory	Stephens
Derwinski	McCloskey	Symms
Devine	McCollister	Talcott
Downing, Va.	McDonald	Taylor, Mo.
Duncan, Tenn.	McEwen	Thornton
du Pont	McKay	Treen
Edwards, Ala.	Mahon	Waggonner
English	Martin	Walsh
Erlenborn	Melcher	Wampler
Esch	Michel	White
Eshleman	Milford	Whitehurst
Findley	Miller, Ohio	Wiggins
Flynt	Mills	Wilson, Bob
Forsythe	Montgomery	Wilson, Tex.
Frenzel	Moore	Winn
Frey	Moorhead, Calif.	Wright
Gibbons	Mosher	Wydler
	Murtha	Young, Alaska
		Young, Fla.
		Young, Tex.

ANSWERED "PRESENT"—1

Brown, Mich.

NOT VOTING—37

Adams	Fraser	St Germain
Addabbo	Gaydos	Simon
Andrews, N.C.	Green	Stuckey
Annunzio	Guyer	Symington
Bell	Hébert	Teague
Biaggi	Hinshaw	Thompson
Burke, Fla.	Jarman	Udall
Burton, John	Jenrette	Vander Jagt
Collins, Ill.	Mathis	Vanik
Dickinson	Metcalfe	Waxman
Diggs	Peyser	Wilson, C. H.
Emery	Riegle	
Ford, Mich.	Russo	

The Clerk announced the following pairs:

On this vote:

Mr. St Germain for, with Mr. Brown of Michigan against.

Mr. Emery for, with Mr. Hébert against.

Mr. Addabbo for, with Mr. Teague against.

Mr. Peyser for, with Mr. Jarman against.

Mr. Thompson for, with Mr. Hinshaw against.

Mr. Green for, with Mr. Dickinson against.

Mr. Annunzio for, with Mr. Burke of Florida against.

Until further notice:

Mr. Adams with Mr. Udall.

Mr. Biaggi with Mr. Fraser.

Mr. John L. Burton with Mr. Mathis.

Mr. Jenrette with Mr. Riegle.

Mr. Russo with Mr. Ford of Michigan.

Mr. Diggs with Mr. Simon.

Mr. Symington with Mr. Metcalfe.

Mrs. Collins of Illinois with Mr. Stuckey.

Mr. Vanik with Mr. Waxman.

Mr. Charles H. Wilson of California with Mr. Andrews of North Carolina.

Messrs. NICHOLS, WOLFF, LENT, CONTE, and RUPPE changed their vote from "nay" to "yea".

Mr. LONG of Maryland changed his vote from "yea" to "nay".

Mr. BROWN of Michigan. Mr. Speaker, I have a live pair with the gentleman from Rhode Island (Mr. ST GERMAIN). If he had been present, he would have voted "yea". I voted "nay". I withdraw my vote and vote "present".

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the motion just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

CONFERENCE REPORT ON H.R. 5247, PUBLIC WORKS EMPLOYMENT ACT OF 1975

Mr. WRIGHT submitted the following conference report and statement on the bill (H.R. 5247) to authorize a local public works development and investment program:

CONFERENCE REPORT (H. REPT. NO. 94–733)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5247) to authorize a local public works capital development and investment program, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate 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 Senate amendment insert the following: That this Act may be cited as the "Public Works Employment Act of 1975".

TITLE I

SEC. 101. This title may be cited as the "Local Public Works Capital Development and Investment Act of 1975".

SEC. 102. As used in this title, the term—

(1) "Secretary" means the Secretary of Commerce, acting through the Economic Development Administration.

(2) "State" includes the several States, the

District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

(3) "local government" means any city, county, town, parish, or other political subdivision of a State, and any Indian tribe.

SEC. 103. (a) The Secretary is authorized to make grants to any State or local government for construction (including demolition and other site preparation activities), renovation, repair, or other improvement of local public works projects including but not limited to those public works projects of State and local governments for which Federal financial assistance is authorized under provisions of law other than this title. In addition the Secretary is authorized to make grants to any State or local government for the completion of plans, specifications, and estimates for local public works projects where either architectural design or preliminary engineering, or related planning has already been undertaken and where additional architectural and engineering work or related planning is required to permit construction of the project under this title.

(b) The Federal share of any project for which a grant is made under this section shall be 100 per centum of the cost of the project.

SEC. 104. In addition to the grants otherwise authorized by this title, the Secretary is authorized to make a grant for the purpose of increasing the Federal contribution to a public works project for which Federal financial assistance is authorized under provisions of law other than this title. Any grant made for a public works project under this section shall be in such amount as may be necessary to make the Federal share of the cost of such project 100 per centum. No grant shall be made for a project under this section unless the Federal financial assistance for such project authorized under provisions of law other than this title is immediately available for such project and construction of such project has not yet been initiated because of lack of funding for the non-Federal share.

SEC. 105. In addition to the grants otherwise authorized by this title, the Secretary is authorized to make a grant for the purpose of providing all or any portion of the required State or local share of the cost of any public works project for which financial assistance is authorized under any provision of State or local law requiring such contribution. Any grant made for a public works project under this section shall be made in such amount as may be necessary to provide the requested State or local share of the cost of such project. A grant shall be made under this section for either the State or local share of the cost of the project, but not both shares. No grant shall be made for a project under this section unless the share of the financial assistance for such project (other than the share with respect to which a grant is requested under this section) is immediately available for such project and construction of such project has not yet been initiated.

SEC. 106. (a) No grant shall be made under section 103, 104, or 105 of this title for any project having as its principal purpose the channelization, damming, diversion, or dredging of any natural watercourse, or the construction or enlargement of any canal (other than a canal or raceway designated for maintenance as an historic site) and having as its permanent effect the channelization, damming, diversion, or dredging of such watercourse or construction or enlargement of any canal (other than a canal or raceway designated for maintenance as an historic site).

(b) No part of any grant made under section 103, 104, or 105 of this title shall be used for the acquisition of any interest in real property.

(c) Nothing in this title shall be construed to authorize the payment of maintenance costs in connection with any projects constructed (in whole or in part) with Federal financial assistance under this title.

(d) Grants made by the Secretary under this title shall be made only for projects for which the applicant gives satisfactory assurances, in such manner and form as may be required by the Secretary and in accordance with such terms and conditions as the Secretary may prescribe, that, if funds are available, on-site labor can begin within ninety days of project approval.

SEC. 107. The Secretary shall, not later than thirty days after date of enactment of this title, prescribe those rules, regulations, and procedures (including application forms) necessary to carry out this title. Such rules, regulations, and procedures shall assure that adequate consideration is given to the relative needs of various sections of the country. The Secretary shall consider among other factors (1) the severity and duration of unemployment in proposed project areas, (2) the income levels and extent of underemployment in proposed project areas, and (3) the extent to which proposed projects will contribute to the reduction of unemployment. The Secretary shall make a final determination with respect to each application for a grant submitted to him under this title not later than the sixtieth day after the date he receives such application. Failure to make such final determination within such period shall be deemed to be an approval by the Secretary of the grant requested. For purposes of this section, in considering the extent of unemployment or underemployment, the Secretary shall consider the amount of unemployment or underemployment in the construction and construction-related industries.

SEC. 108. (a) Not less than one-half of 1 per centum or more than 10 per centum of all amounts appropriated to carry out this title shall be granted under this title for local public works projects within any one State, except that in the case of Guam, Virgin Islands, and American Samoa, not less than one-half of 1 per centum in the aggregate shall be granted for such projects in all three of these jurisdictions.

(b) In making grants under this title, the Secretary shall give priority and preference to public works projects of local governments.

(c) In making grants under this title, if for the three most recent consecutive months, the national unemployment rate is equal to or exceeds 6½ per centum, the Secretary shall (1) expedite and give priority to applications submitted by States or local governments having unemployment rates for the three most recent consecutive months in excess of the national unemployment rate and (2) shall give priority thereafter to applications submitted by States or local governments having unemployment rates for the three most recent consecutive months in excess of 6½ per centum, but less than the national unemployment rate. Information regarding unemployment rates may be furnished either by the Federal Government, or by States or local governments, provided the Secretary determines that the unemployment rates furnished by States or local governments are accurate, and shall provide assistance to States or local governments in the calculation of such rates to insure validity and standardization.

(d) Seventy per centum of all amounts appropriated to carry out this title shall be granted for public works projects submitted by State or local governments given priority under clause (1) of the first sentence of subsection (c) of this section. The remaining 30 per centum shall be available for public works projects submitted by State or local governments in other classifications of priority.

(e) In determining the unemployment rate of a local government for the purposes of this section, unemployment in those adjoining areas from which the labor force for such project may be drawn, shall, upon request of the applicant, be taken into consideration.

(f) States and local governments making application under this title should (1) relate their specific requests to existing approved plans and programs of a local community development or regional development nature so as to avoid harmful or costly inconsistencies or contradictions; and (2) where feasible, make requests which, although capable of early initiation, will promote or advance longer range plans and programs.

SEC. 109. All laborers and mechanics employed by contractors or subcontractors on projects assisted by the Secretary under this title shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a–5). The Secretary shall not extend any financial assistance under this title for such project without first obtaining adequate assurance that these labor standards will be maintained upon the construction work. The Secretary of Labor shall have, with respect to the labor standards specified in this provision, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267; 5 U.S.C. 133z–15), and section 2 of the Act of June 13, 1964, as amended (40 U.S.C. 276c).

SEC. 110. No person shall on the ground of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any project receiving Federal grant assistance under this title, including any supplemental grant made under this title. This provision will be enforced through agency provisions and rules similar to those already established, with respect to racial and other discrimination under title VI of the Civil Rights Act of 1964. However, this remedy is not exclusive and will not prejudice or cut off any other legal remedies available to a discriminatee.

SEC. 111. There is authorized to be appropriated not to exceed $2,500,000,000 for the period ending September 30, 1977, to carry out this title.

TITLE II—ANTIRECESSION PROVISIONS

FINDINGS OF FACT AND DECLARATION OF POLICY

SEC. 201. (a) FINDINGS.—The Congress finds—

(1) that State and local governments represent a significant segment of the national economy whose economic health is essential to national economic prosperity;

(2) that present national economic problems have imposed considerable hardships on State and local government budgets;

(3) that those governments, because of their own fiscal difficulties, are being forced to take budget-related actions which tend to undermine Federal Government efforts to stimulate the economy;

(4) that efforts to stimulate the economy through reductions in Federal Government tax obligations are weakened when State and local governments are forced to increase taxes;

(5) that the net effect of Federal Government efforts to reduce unemployment through public service jobs is substantially limited if State and local governments use federally financed public service employees to replace regular employees that they have been forced to lay off;

(6) that efforts to stimulate the construction industry and reduce unemployment are substantially undermined when State and local governments are forced to cancel or delay the construction of essential capital projects; and

(7) that efforts by the Federal Government to stimulate the economic recovery will be substantially enhanced by a program of

emergency Federal Government assistance to State and local governments to help prevent those governments from taking budget-related actions which undermine that Federal Government efforts to stimulate economic recovery.

(b) POLICY.—Therefore, the Congress declares it to be the policy of the United States and the purpose of this title to make State and local government budget-related actions more consistent with Federal Government efforts to stimulate national economic recovery; to enhance the stimulative effort of a Federal Government income tax reduction; and to enhance the job creation impact of Federal Government public service employment programs. It is the intention of Congress that amounts paid to a State or local government under this title shall not be substituted for amounts which the State would have paid or made available to the local government out of revenues from State sources.

FINANCIAL ASSISTANCE AUTHORIZED

SEC. 202. (a) EMERGENCY SUPPORT GRANTS.—The Secretary of the Treasury (hereafter in this title referred to as the "Secretary") shall, in accordance with the provisions of this title, make emergency support grants to States and to local governments to coordinate budget-related actions by such governments with Federal Government efforts to stimulate economic recovery.

(b) AUTHORIZATION OF APPROPRIATIONS.—Subject to the provisions of subsection (c), there are authorized to be appropriated for each of the five succeeding calendar quarters (beginning with the calendar quarter which begins on April 1, 1976) for the purpose of making emergency support grants under this title—

(1) $125,000,000 plus

(2) $62,500,000, multiplied by the number of one-half percentage points by which the rate of seasonally adjusted national unemployment for the most recent calendar quarter which ended three months before the beginning of such calendar quarter exceeded 6 percent.

(c) TERMINATION.—No amount is authorized to be appropriated under the provisions of subsection (b) for any calendar quarter if—

(1) the average rate of national unemployment during the most recent calendar quarter which ended 3 months before the beginning of such calendar quarter did not exceed 6 percent, and

(2) the rate of national unemployment for the last month of the most recent calendar quarter which ended 3 months before the beginning of such calendar quarter did not exceed 6 per cent.

ALLOCATION

SEC. 203. (a) RESERVATIONS.—

(1) ALL STATES.—The Secretary shall reserve one-third of the amounts appropriated pursuant to authorization under section 202 for each calendar quarter for the purpose of making emergency support grants to States under the provisions of subsection (b).

(2) ALL LOCAL GOVERNMENTS.—The Secretary shall reserve two-thirds of such amounts for the purpose of making emergency support grants to local governments under the provisions of subsection (c).

(b) STATE ALLOCATION.—

(1) IN GENERAL.—The Secretary shall allocate from amounts reserved under subsection (a)(1) an amount for the purpose of making emergency support grants to each State equal to the total amount reserved under subsection (a)(1) for the calendar quarter multiplied by the applicable State percentage.

(2) APPLICABLE STATE PERCENTAGE.—For purposes of this subsection, the applicable State percentage is equal to the quotient resulting from the division of the product of—

(A) the State excess unemployment percentage, multiplied by

(B) the State tax amount

by the sum of such products for all the States.

(3) DEFINITIONS.—For purposes of this section—

(A) the term "State" means each State of the United States;

(B) the State excess unemployment percentage is equal to the difference resulting from the subtraction of the State base period unemployment rate for that State from the State unemployment rate for that State;

(C) the State base period unemployment rate is equal to the average annual rate of unemployment in the State determined over the period which begins on January 1, 1967, and ends on December 31, 1969, as determined by the Secretary of Labor and reported to the Secretary;

(D) the State unemployment rate is equal to the rate of unemployment in the State during the appropriate calendar quarter, as determined by the Secretary of Labor and reported to the Secretary; and

(E) the State tax amount is the amount of compulsory contributions exacted by the State for public purposes (other than employee and employer assessments and contributions to finance retirement and social insurance systems, and other than special assessments for capital outlay), as such contributions are determined for the most recent period for which such data are available from the Social and Economic Statistics Administration for general statistical purposes.

(c) LOCAL GOVERNMENT ALLOCATION.—

(1) IN GENERAL.—The Secretary shall allocate from amounts reserved under subsection (a)(2) an amount for the purpose of making emergency support grants to each local government, subject to the provisions of paragraph (3), equal to the total amount reserved under such subsection for the calendar quarter multiplied by the local government percentage.

(2) LOCAL GOVERNMENT PERCENTAGE.—For purposes of this subsection, the local government percentage is equal to the quotient resulting from the division of the product of—

(A) the local excess unemployment percentage, multiplied by

(B) the local adjusted tax amount,

by the sum of such products for all local governments.

(3) SPECIAL RULE.—

(A) For purposes of paragraphs (1) and (2), all local governments within the jurisdiction of a State other than identifiable local governments shall be treated as though they were one local government.

(B) The Secretary shall set aside from the amount allocated under paragraph (1) of this subsection for all local governments within the jurisdiction of a State which are treated as though they are one local government under subparagraph (A) an amount determined under subparagraph (C) for the purpose of making emergency support grants to each local government, other than identifiable local governments, within the jurisdiction of such State.

(C) The amount set aside for the purpose of making emergency support grants to each local government, other than an identifiable local government, within the jurisdiction of a State under subparagraph (B) shall be—

(i) determined under an allocation plan submitted by such State to the Secretary which meets the requirements set forth in section 206(b), or

(ii) if a State does not submit an allocation plan under section 206(b) for purposes of this paragraph within 30 days after the date of enactment of this title or if a State's allocation plan is not approved by the Secretary under section 206(c), equal to the total amount allocated under paragraph (1) of this subsection for all local governments within the jurisdiction of such State which are treated as though they are one local government under subparagraph (A) multiplied by the local government percentage, as defined in paragraph (2) (determined without regard to the parenthetical phrases at the end of paragraphs (4) (B) and (C) of this subsection).

(D) If local unemployment rate data (as defined in paragraph (4)(B) of this subsection without regard to the parenthetical phrase at the end of such definition) for a local government jurisdiction is unavailable to the Secretary or the State for purposes of determining the amount to be set aside for such government under subparagraph (C) then the Secretary or State shall determine such amount under subparagraph (C) by using—

(i) the best available unemployment rate data for such government if such data is determined in a manner which is substantially consistent with the manner in which local unemployment rate data is determined, or

(ii) if no consistent unemployment rate data is available, the local unemployment rate data for the smallest unit of identifiable local government in the jurisdiction of which such government is located.

(E) If the amount determined under subparagraph (C) which would be set aside for the purpose of making emergency support grants to a local government under subparagraph (B) is less than $250 then no amount shall be set aside for such local government under subparagraph (B).

(4) DEFINITIONS.—For purposes of this subsection—

(A) the local excess unemployment percentage is equal to the difference resulting from the subtraction of 4.5 percentage points from the local unemployment rate;

(B) the local unemployment rate is equal to the rate of unemployment in the jurisdiction of the local government during the appropriate calendar quarter, as determined by the Secretary of Labor and reported to the Secretary (in the case of local governments treated as one local government under paragraph (3)(A), the local unemployment rate shall be the unemployment rate of the State adjusted by excluding consideration of unemployment and of the labor force within identifiable local governments, other than county governments, within the jurisdiction of that State);

(C) the local adjusted tax amount means—

(i) the amount of compulsory contributions exacted by the local government for public purposes (other than employee and employer assessments and contributions to finance retirement and social insurance systems, and other than special assessments for capital outlay) as such contributions are determined for the most recent period for which such data are available from the Social and Economic Statistics Administration for general statistical purposes.

(ii) adjusted (under rules prescribed by the Secretary) by excluding an amount equal to that portion of such compulsory contributions which is properly allocable to expenses for education,

(and in the case of local governments treated as one local government under paragraph (3)(A), the local tax amount shall be the sum of the local adjusted tax amounts of all local governments within the State, adjusted by excluding an amount equal to the sum of the local adjusted tax amounts of identifiable local governments within the jurisdiction of that State);

(D) the term "identifiable local government" means a unit of general local government for which the Secretary of Labor has made a determination concerning the rate of unemployment for purposes of title II or title VI of the Comprehensive Employment and

Training Act of 1973 during the current or preceding fiscal year; and

(E) the term "local government" means the government of a county, municipality, township, or other unit of government below the State which—

(i) is a unit of general government (determined on the basis of the same principles as are used by the Social and Economic Statistics Administration for general statistical purposes), and

(ii) performs substantial governmental functions.

Such term includes the District of Columbia and also includes the recognized governing body of an Indian tribe or Alaskan native village which performs substantial governmental functions. Such term does not include the government of a township area unless such government performs substantial governmental functions.

For the purpose of paragraph (4)(D), the Secretary of Labor shall, notwithstanding any other provision of law, continue to make determinations with respect to the rate of unemployment for the purposes of such title VI.

CONTINGENCY FUND

SEC. 204. (a) RESERVATION.—The Secretary shall reserve from the amounts appropriated pursuant to the authorization under section 202 for each calendar quarter an amount equal to the amount, if any, not paid to State or local governments by reason of section 210 (c), but not in excess of an amount which is equal to 10 percent multiplied by the total amount appropriated under the authorization in section 202 for such quarter, for the purpose of making additional emergency support grants to State or local governments which are in severe fiscal difficulty, as determined under subsection (d).

(b) ALLOCATIONS.—The Secretary shall allocate from the amounts reserved under subsection (a) such amount as he determines is necessary for an additional emergency support grant to assist each State or local government, upon application by such government, which is in severe fiscal difficulty. The sum of the amounts allocated under this subsection may not be less than 75 percent of the amount reserved under subsection (a) for the calendar quarter. No amount may be allocated for an additional emergency support grant to a State or local government under this section in excess of an amount equal to the lesser of—

(1) 10 percent of the amount allocated to such State or local government under section 203 for the calendar quarter, or

(2) 15 percent of the amount reserved under this subsection for the calendar quarter.

(c) SPECIAL RULE FOR PUERTO RICO, VIRGIN ISLANDS, GUAM, AND THE TRUST TERRITORIES OF THE PACIFIC.—The Secretary may allocate from the amount reserved under subsection (a) amounts for the purpose of making emergency support grants to the governments of the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and the Trust Territories of the Pacific, upon application by such governments, if such governments are in severe fiscal difficulty, as determined under subsection (d). The total amount of payments made under this paragraph during any calendar quarter may not exceed 10 percent of the amount reserved under subsection (a) for that quarter. For purposes of sections 205 through 215, the governments of the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and the Trust Territories of the Pacific shall be considered to be State governments.

(d) CRITERIA FOR SEVERE FISCAL DIFFICULTY.—For purposes of this section, a State or local government shall be considered to be in severe fiscal difficulty if—

(1) the rate of unemployment during the appropriate calendar quarter within its jurisdiction exceeds the national annual average rate of unemployment,

(2) it is currently unable, or will be unable before the end of the current calendar quarter, to pay accrued interest to the holders of its outstanding debt instruments, or

(3) it must increase taxes immediately to maintain its level of basic services or reduce the level of those services before the end of the current calendar quarter.

USES OF EMERGENCY SUPPORT GRANTS

SEC. 205. Each State and local government shall use emergency support grants made under this title for the maintenance of basic services customarily provided to persons in that State or in the area under the jurisdiction of that local government, as the case may be. State and local governments may not use emergency support grants made under this title for the acquisition of supplies and materials and for construction unless such supplies and materials or construction are essential to maintain basic services.

APPLICATIONS

SEC. 206. IN GENERAL.—Each State and local government may receive emergency support grants under this title only upon application to the Secretary, at such time, in such manner, and containing or accompanied by such information as the Secretary prescribes by rule. The Secretary may not require any State or local government to make more than one such application during each fiscal year. Each such application shall—

(1) include a State or local government program for the maintenance, to the extent practical, of levels of public employment and of basic services customarily provided to persons in that State or in the area under the jurisdiction of that local government which is consistent with the provisions of section 205;

(2) provide that fiscal control and fund accounting procedures will be established as may be necessary to assure the proper disbursal of, and accounting for, Federal funds paid to the State or local government under this title;

(3) provide that reasonable reports will be furnished in such form and containing such information as the Secretary may reasonably require to carry out the purposes of this title and provide that the Secretary, on reasonable notice, shall have access to, and the right to examine any books, documents, papers, or records as he may reasonably require to verify such reports;

(4) provide that the requirements of section 207 will be complied with;

(5) provide that the requirements of section 208 will be complied with;

(6) provide that the requirements of section 209 will be complied with; and

(7) provide that any amount received as an emergency support grant under this title shall be expended by the State or local government before the end of the 6-calendar-month period which begins on the date after the day on which such State or local government receives such grant.

(b) STATE ALLOCATION PLANS FOR PURPOSES OF SECTION 203(c)(3).—A State may file an allocation plan with the Secretary for purposes of section 203(c)(3)(C)(i) at such time, in such manner, and containing such information as the Secretary may require by rule. Such allocation plan shall meet the following requirements:

(1) the criteria for allocation of amounts among the local governments within the State shall be consistent with the allocation formula for local governments under section 203(c)(2);

(2) the allocation criteria must be specified in the plan; and

(3) the plan must be developed after consultation with appropriate officials of local governments within the State other than identifiable local governments. The allocation plan required under the subparagraph shall, to the extent feasible, include consideration of the needs of small local government jurisdictions with severe fiscal problems.

(c) APPROVAL.—The Secretary shall approve any application that meets the requirements of subsection (a) or (b) within 30 days after he receives such application, and shall not finally disapprove, in whole or in part, any application for an emergency support grant under this title without first affording the State or local government reasonable notice and an opportunity for a hearing.

NONDISCRIMINATION

SEC. 207. (a) IN GENERAL.—No person in the United States shall, on the grounds of race, religion, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.

(b) AUTHORITY OF THE SECRETARY.—Whenever the Secretary determines that a State government or unit of local government has failed to comply with subsection (a) or an applicable regulation, he shall, within 10 days, notify the Governor of the State (or, in the case of a unit of local government, the Governor of the State in which such unit is located, and the chief elected official of the unit) of the noncompliance. If within 30 days of the notification compliance is not achieved, the Secretary shall, within 10 days thereafter—

(1) exercise all the powers and functions provided by title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d);

(2) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted; or

(3) take such other action as may be provided by law.

(c) ENFORCEMENT.—Upon his finding of discrimination under subsection (b), the Secretary shall have the full authority to withhold or temporarily suspend any grant under this title, or otherwise exercise any authority contained in title VI of the Civil Rights Act of 1964, to assure compliance with the requirement of nondiscrimination in federally assisted programs set forth in that title.

(d) APPLICABILITY OF CERTAIN CIVIL RIGHTS ACTS.—

(1) Any party who is injured or deprived within the meaning of section 1979 of the Revised Statutes (42 U.S.C. 1983) or of section 1980 of the Revised Statutes (42 U.S.C. 1985) by any person, or two or more persons in the case of such section 1980, in connection with the administration of an emergency support grant under this title may bring a civil action under such section 1979 or 1980, as applicable, subject to the terms and conditions of those sections.

(2) Any person who is aggrieved by an unlawful employment practice within the meaning of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) by any employer in connection with the administration of an emergency support grant under this title may bring a civil action under section 706(f)(1) of such Act (42 U.S.C. 2000e–5(f)(1)) subject to the terms and conditions of such title.

LABOR STANDARDS

SEC. 208. All laborers and mechanics employed by contractors on all construction projects assisted under this title shall be paid wages at rates not less than those prevailing on similar projects in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act (40 U.S.C. 276a to 276a–5). The Secretary of Labor shall have, with respect to the labor standards specified in this section, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 C.F.R.

3176) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

SPECIAL REPORTS

SEC. 209. Each State and local government which receives a grant under the provisions of this title shall report to the Secretary any increase or decrease in any tax which it imposes and any substantial reduction in the number of individuals it employs or in services which such State or local government provides. Each state which receives a grant under the provisions of this title shall report to the Secretary any decrease in the amount of financial assistance which the State provides to the local governments within its jurisdiction below the amount which equals the amount of such assistance which such State provided to such local governments during the 12-month period which ends on the last day of the calendar quarter immediately preceding the date of enactment of this title, together with an explanation of the reasons for such decrease. Such reports shall be made as soon as it is practical and, in any case, not less than 6 months after the date on which the decision to impose such tax increase or decrease, such reductions in employment or services, or such decrease in State financial assistance is made public.

PAYMENTS

SEC. 210. (a) IN GENERAL.—From the amount allocated for State and local governments under sections 203 and 204, the Secretary shall pay to each State and to each local government, which has an application approved under section 206, an amount equal to the amount allocated to such State or local government under section 203 or section 204.

(b) ADJUSTMENTS.—Payments under this title may be made with necessary adjustments on account of overpayments or underpayments.

(c) TERMINATION.—No amount shall be paid to any State or local government under the provisions of this section for any calendar quarter if—

(1) the average rate of unemployment within the jurisdiction of such State or local government during the most recent calendar quarter which ended three months before the beginning of such calendar quarter was less than 6 percent, and

(2) the rate of unemployment within the jurisdiction of such government for the last month of the most recent calendar quarter which ended three months before the beginning of such calendar quarter did not exceed 6 percent.

STATE AND LOCAL GOVERNMENT ECONOMIZATION

SEC. 211. No State or local government may receive any payment under the provisions of this title unless such government in good faith certifies in writing to the Secretary, at such time and in such manner and form as the Secretary prescribes by rule, that it has made substantial economies in its operations and that without grants under this title it will not be able to maintain essential services without increasing taxes or maintaining recent increases in taxes thereby weakening Federal Government efforts to stimulate the economy through reductions in Federal tax obligations.

WITHHOLDING

SEC. 212. Whenever the Secretary, after affording reasonable notice and an opportunity for a hearing to any State or local government, finds that there has been a failure to comply substantially with any provision set forth in the application of that State or local government approved under section 206, the Secretary shall notify that State or local government that further payments will not be made under this title until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied, no further payments shall be made under this title.

REPORTS

SEC. 213. The Secretary shall report to the Congress as soon as is practical after the end of each calendar quarter during which grants are made under the provisions of this title. Such report shall include information on the amounts paid to each State and local government and a description of any action which the Secretary has taken under the provisions of section 212 during the previous calendar quarter. The Secretary shall report to Congress as soon as is practical after the end of each calendar year during which grants are made under the provisions of this title. Such reports shall include detailed information on the amounts paid to State and local governments under the provisions of this title, any actions with which the Secretary has taken under the provisions of section 212, and an evaluation of the purposes to which amounts paid under this title were put by State and local governments and the economic impact of such expenditures during the previous calendar year.

ADMINISTRATION

SEC. 214. (a) RULES.—The Secretary is authorized to prescribe, after consultation with the Secretary of Labor, such rules as may be necessary for the purposes of carrying out his functions under this title.

(b) COORDINATION.—In administering the provisions of this title, the Secretary is authorized to use the services and facilities of any agency of the Federal Government and of any other public agency or institution in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement as may be agreed upon.

PROGRAM STUDIES AND RECOMMENDATIONS

SEC. 215. (a) EVALUATION.—The Comptroller General of the United States shall conduct an investigation of the impact which emergency support grants have on the operations of State and local governments and on the national economy. Before and during the course of such investigation the Comptroller General shall consult with and coordinate his activities with the Congressional Budget Office and the Advisory Commission on Intergovernmental Relations. The Comptroller General shall report the results of such investigation to the Congress within two years after the date of enactment of this title together with an evaluation of the macro-economic effect of the program established under this title and any recommendations for improving the effectiveness of similar programs. Such report shall include the opinions of the Congressional Budget Office and the Advisory Commission on Intergovernmental Relations with respect to the program established under this title and any recommendations which they may have for improving the effectiveness of imilar programs. All officers and employees of the United States shall make available all information, reports, data, and any other material necessary to carry out the provisions of this subsection to the Comptroller General upon a reasonable request.

(b) COUNTERCYCLICAL STUDY.—The Director of the Congressional Budget Office and the Advisory Commission on Intergovernmental Relations shall conduct a study to determine the most effective means by which the Federal Government can stabilize the national economy during periods of excess expansion and high inflation through programs directed toward State and local governments. Before and during the course of such study the Director and the Advisory Commission shall consult with and coordinate their activities with the Comptroller General of the United States. The Director and the Advisory Commission shall report the results of such study to Congress within two years after the date of enactment of this title. Such study shall include the opinions of the Comptroller General with respect to such study.

TITLE III

SEC. 301. (a) Section 201(c) of the Public Works and Economic Development Act of 1965, as amended, is amended to read as follows:

"(c) There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this section and section 202, except that annual appropriations for the purpose of purchasing evidences of indebtedness, paying interest supplement to or on behalf of private entities making and participating in loans, and guaranteeing loans, shall not exceed $170,000,000 for the fiscal year ending June 30, 1966, and for each fiscal year thereafter through the fiscal year ending June 30, 1973, and shall not exceed $55,000,000 for the fiscal year ending June 30, 1974, and shall not exceed $75,000,000 for the fiscal year ending June 30, 1975, and shall not exceed $200,000,000 for the fiscal year ending June 30, 1976.".

(b) Section 202(a)(1) of such Act, as amended, is amended by adding after paragraph (1) the following new paragraph:

"(2) In addition to any other financial assistance under this title, the Secretary is authorized, in the case of any loan guarantee under authority of paragraph (1) of this section to pay to or on behalf of the private borrower an amount sufficient to reduce up to 4 percentage points the interest paid by such borrower on such guaranteed loans. Payments made to or on behalf of such borrower shall be made no less often than annually. No obligation shall be made by the Secretary to make any payment under this paragraph for any loan guarantee made after December 31, 1976."

(c) Section 202(a) of such Act, as amended, is amended by renumbering existing paragraphs (2) through (10) as (3) through (11), respectively, including any references thereto.

SEC. 302. Title IV of the Public Works and Economic Development Act of 1965 is further amended by adding at the end thereof, the following:

"PART D—URBAN ECONOMIC DEVELOPMENT

"SEC. 405. (a) For the purposes of this section, the term 'city' means (A) any unit of general local government which is classified as a municipality by the Bureau of the Census, or (B) any other unit of general local government which is a town or township and which, in the determination of the Secretary, (i) possesses powers and performs functions comparable to those associated with municipalities, (ii) is closely settled, and (iii) contains within its boundaries no incorporated places as defined by the Bureau of the Census.

"(b) Any city with a population of 50,000 or more which has submitted to and has had approved by the Secretary an overall economic development program in accordance with section 202(b)(10) of this Act shall be designated by the Secretary as a 'redevelopment area' and such area shall be entitled to the assistance authorized by this Act, except that only funds authorized by subsection (d) of this section shall be expended in providing such assistance to a city whose only designation as a 'redevelopment area' is under this section. Nothing in this section shall be construed to prohibit the designation of a city as a 'redevelopment area' under this section in addition to its designation as a 'redevelopment area' under any other provision of this Act, and nothing in this section shall be construed to prohibit a city designated a 'redevelopment area' both under this section and another provision of this Act from receiving assistance under this Act through the expenditure of funds both under this section and under any other provision of this Act.

"(c) In addition to any other assistance available under this Act, if a city that has been designated as a redevelopment area under this section prepares a plan for the

redevelopment of the city or a part thereof and submits such plan to the Secretary for his approval and the Secretary approves such plan, the Secretary is authorized to make a grant to such city for the purpose of carrying out such plan. Such plan may include industrial land assembly, land banking, acquisition of surplus government property, acquisition of industrial sites including acquisition of abandoned properties with redevelopment potential, real estate development including redevelopment and rehabilitation of historical buildings for industrial and commercial use, rehabilitation and renovation of usable empty factory buildings for industrial and commercial use, and other investments which will accelerate recycling of land and facilities for job creating economic activity. Any such grant shall be made on condition (A) that the city will use such grant to make grants or loans, or both, to carry out such plans, and (B) the repayments of any loans made by the city from such grant shall be placed by such city in a revolving fund available solely for the making of other grants and loans by the city, upon approval by the Secretary, for the economic redevelopment of the city.

"(d) There is hereby authorized to be appropriated to carry out this section not to exceed $50,000,000 for the fiscal year ending June 30, 1976, and not to exceed $50,000,000 for the transition period ending September 30, 1976."

SEC. 303. (a) Section 1003(c) of the Public Works and Economic Development Act of 1965, as amended, is amended to read as follows:

"(c) Where necessary to effectively carry out the purposes of this title, the Secretary of Commerce is authorized to assist eligible areas in making applications, for grants under this title.".

(b) Section 1003(d) of such Act, as amended, is amended to read as follows:

"(d) Notwithstanding any other provisions of this title, funds allocated by the Secretary of Commerce shall be available only for a program or project which the Secretary identifies and selects pursuant to this subsection, and which can be initiated or implemented promptly and substantially completed within twelve months after allocation is made. In identifying and selecting programs and projects pursuant to this subsection, the Secretary shall (1) give priority to programs and projects which are most effective in creating and maintaining productive employment, including permanent and skilled employment measured as the amount of such direct and indirect employment generated or supported by the additional expenditures of Federal funds under this title, and (2) consider the appropriateness of the proposed activity to the number and needs of unemployed persons in the eligible area.".

(c) Section 1003(e) of such Act as amended, is amended to read as follows:

"(e) The Secretary, if the national unemployment rate is equal to or exceeds 6½ per centum for the most recent three consecutive months, shall expedite and give priority to grant applications submitted for such areas having unemployment in excess of the national average rate of unemployment for the most recent three consecutive months. Seventy per centum of the funds appropriated pursuant to this title shall be available only for grants in areas as defined in the second sentence of this subsection. If the national average unemployment rate recedes below 6½ per centum for the most recent three consecutive months, the authority of the Secretary to make grants under this title is suspended until the national average unemployment has equaled or exceeded 6½ per centum for the most recent three consecutive months. Not more than 15 per centum of all amounts appropriated to carry out this title shall be available under this title for projects or programs within any one State, except that in the case of Guam, Virgin Islands, and American Samoa, not less than one-half of 1 per centum in the aggregate shall be available for such projects or programs.".

SEC. 304. Section 1004 of the Public Works and Economic Development Act of 1965, as amended, is amended to read as follows:

"SEC. 1004. (a) Within forty-five days after enactment of the Emergency Job and Unemployment Assistance Act of 1974 or within forty-five days after any funds are appropriated to the Secretary to carry out the purposes of this title, each department, agency, or instrumentality of the Federal Government, each regional commission established by section 101 of the Appalachian Regional Development Act of 1965 or pursuant to section 502 of this Act, shall (1) complete a review of its budget, plans, and programs and including State, substate, and local development plans filed with such department, agency or commission; (2) evaluate the job creation effectiveness of programs and projects for which funds are proposed to be obligated in the calendar year and additional programs and projects (including new or revised programs and projects submitted under subsection (b)) for which funds could be obligated in such year with Federal financial assistance under this title; and (3) submit to the Secretary of Commerce recommendations for programs and projects which have the greatest potential to stimulate the creation of jobs for unemployed persons in eligible areas. Within forty-five days of the receipt of such recommendations the Secretary of Commerce shall review such recommendations, and after consultation with such department, agency, instrumentality, regional commission, State, or local government make allocations of funds in accordance with section 1003(d) of this title.

"(b) States and political subdivisions in any eligible area may, pursuant to subsection (a), submit to the appropriate department, agency, or instrumentality of the Federal Government (or regional commission) program and project applications for Federal financial assistance provided under this title.

"(c) The Secretary, in reviewing programs and projects recommended for any eligible area shall give priority to programs and projects originally sponsored by States and political subdivisions, including but not limited to new or revised programs and projects submitted in accordance with this section.".

SEC. 305. Section 1005 of the Public Works and Economic Development Act of 1965, as amended, is amended by striking such section and renumbering subsequent sections accordingly.

SEC. 306. Section 1005 of the Public Works and Economic Development Act of 1965, as amended, as redesignated by this Act, is amended by striking the period and inserting the following at the end thereof: "unless this would require project grants to be made in areas which do not meet the criteria of this title.".

SEC. 307. (a) Section 1006 of the Public Works and Economic Development Act of 1965, as amended, as redesignated by this Act, is amended by inserting the following after "1975" in the first sentence: "and $500,000,000 for the fiscal year 1976 and the transition period ending September 30, 1976".

(b) Section 1006 as redesignated by this Act is further amended by striking "December 31, 1975" in the second sentence and inserting in lieu thereof "September 30, 1976".

(c) Section 1006 of the Public Works and Economic Development Act of 1965 as redesignated by the Act is amended by adding at the end thereof the following new sentence: "Funds authorized to carry out this title shall be in addition to, and not in lieu of, any amounts authorized by other provisions of law.".

SEC. 308. Section 1007 as redesignated by this Act is amended by striking "December 31, 1975" and inserting in lieu thereof "September 30, 1976".

SEC. 309. Title X of the Public Works and Economic Development Act of 1965 is further amended by adding at the end thereof the following new section:

"CONSTRUCTION COSTS

"SEC. 1008. No program or project originally approved for funds under an existing program shall be determined to be eligible for Federal financial assistance under this title solely because of increased construction costs."

SEC. 310. The Secretary of Commerce shall notify in a timely and uniform manner State and local governments having areas eligible for assistance under Title X of the Public Works and Economic Development Act of 1965.

SEC. 311. (a) There is authorized to be appropriated to carry out title II of the Federal Water Pollution Control Act, other than sections 206, 208, and 209, for the fiscal year ending September 30, 1977, not to exceed $1,417,968,050 which sum (subject to such amounts as are provided in appropriation Acts) shall be allotted to each State listed in column 1 of table IV contained in House Public Works and Transportation Committee Print numbered 94–25 in accordance with the percentages provided for such State (if any) in column 5 of such table. The sum authorized by this section shall be in addition to, and not in lieu of, any funds otherwise authorized to carry out such title during such fiscal year. Any sums allotted to a State under this section shall be available until expended.

(b) The Administrator of the Environmental Protection Agency shall, within 45 days from the date of enactment of this section, report to Congress his recommendations for a formula or formulas to be used to allot equitably and allocate new funds authorized to carry out title II of the Federal Water Pollution Control Act.

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the 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 Senate to the title of the bill, insert the following: "An Act to authorize a local public works capital development and investment program, to amend the Public Works and Economic Development Act of 1965 to increase the anti-recessionary effectiveness of the program, and for other purposes."

And the Senate agree to the same.

ROBERT E. JONES,
JIM WRIGHT,
HAROLD JOHNSON,
ROBERT ROE,
BELLA S. ABZUG,
Managers on the Part of the House.

JENNINGS RANDOLPH,
EDMUND S. MUSKIE,
JOSEPH M. MONTOYA,
QUENTIN BURDICK,
ABRAHAM RIBICOFF,
JOHN GLENN,
HOWARD BAKER,
JAMES BUCKLEY,
JAMES A. MCCLURE,
JACOB JAVITS,
Managers on the Part of the Senate.

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 Senate to the bill (H.R. 5247) to authorize a local public works capital development and investment program, submit the following joint statement to the

House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment to the text of the bill struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees in minor drafting and clarifying changes.

TITLE I

House bill

House Bill

The short title of the House bill provides the legislation may be cited as the "Local Public Works Capital Development and Investment Act of 1975".

Senate Amendment

Provides the Act may be cited as the "Public Works Employment Act of 1975".

Conference Substitute

Identical to Senate amendment as to the Act and identical to the House bill as to title I.

Statement of purpose

House Bill

Provides that the purpose of the legislation is to establish a program to combat unemployment, to stimulate activity in the construction and materials industries and to assist State and local governments provide adequate public facilities.

Senate Amendment

No comparable provision.

Conference Substitute

No comparable provision.

Definition of terms

House Bill

Defines "Secretary" to mean the Secretary of Commerce acting through the Economic Development Administration; defines "State" to include the several states, District of Columbia, Commonwealth of Puerto Rico, the Virgin Islands, Guam and American Samoa; and defines "local government" to mean any city, county, town, parish or other political subdivision of a State and any Indian tribe.

Senate Amendment

No comparable provision.

Conference Substitute

Same as the House bill. Section 3 of this Act defines "local government" as any city, county, town, parish or other political subdivision of a State or any Indian tribe. For the purposes of this Act, it is intended that special districts such as school districts, and regional authorities, composed of local governments that are established or authorized by State law will be considered a political subdivision of the State.

Direct grant program

House Bill

Authorizes the Secretary to make grants to State and local governments for the construction, renovation, repair or other improvement of public works projects. This includes grants for projects for which Federal financial assistance is authorized by other acts and grants for architectural design, engineering and related planning expenses. No part of any grant under this section may be used for the purchase of any interest in land. The Federal share of the cost of any project for which a grant is made under this act shall be 100 percent of the cost of the project. Grants can be made only when it is shown that, if funds are available, on-site labor can begin within 90 days of the project approval.

Projects that would be eligible for funding would include, but not be limited to, the following: demolition and other site preparation activities, new construction, renovating, and major improvements of public facilities such as municipal offices, courthouses, libraries, schools, police and fire stations, detention facilities, water and sewage treatment facilities, water and sewer lines, streets and roads (including curbs), sidewalks, lighting, recreational facilities, convention centers, civic centers, museums, and health, education and social service facilities.

Senate Amendment

No comparable provision.

Conference Substitute

Same as the House bill except that grants may be made for the completion of plans, specifications, and estimates where either architectural design or preliminary engineering or related planning has already been undertaken and where additional architectural and engineering work or related planning is required to permit construction of the project. It is intended that these grants will be made for projects which will result quickly in work on the job site.

With respect to any expenditure of funds for detention facilities, the Secretary of Commerce shall make grants only to those projects which meet the criteria set down under Part E of the Omnibus Safe Streets and Crime Control Act of 1968, as amended (Subparts (1) and (4) through (9) of Section 3750(b) of Title 42, U.S.C.)

Rules and regulations

House Bill

Requires the Secretary to prescribe rules and regulations within 30 days of enactment. In doing so, he must consider, among other factors: (1) The severity and duration of unemployment in the project areas, (2) the extent of underemployment in the project area, and (3) the extent to which the project will contribute to the reduction of unemployment. In considering the extent of unemployment and underemployment under this section, the Secretary must consider the amount of unemployment and underemployment in the construction-related industries. A final determination of each project application must be made within 60 days of receiving it. Failure to make such determination within this period will be deemed to be an approval by the Secretary.

Senate Amendment

No comparable provision.

Conference Substitute

Same as the House bill.

Supplemental grants

House Bill

Authorizes the Secretary to make grants for the purpose of increasing the Federal contribution to 100 percent of project cost on any Federally-assisted public works projects authorized by any other Federal law where the Federal financial assistance under such law is immediately available and construction has not been started. However, no part of any grant made under this section may be used for the purchase of any interest in land.

Senate Amendment

No comparable provision.

Conference Substitute

Same as the House bill.

Grants for projects authorized by State or local law

House Bill

Authorizes the Secretary to make grants for all or any portion of the State or local share of cost of any public works project authorized by any State or local law. However, no grant may provide both the State and local share. The matching share, other than the share with respect to which a grant is requested, must be immediately available for the project and construction of the project not yet started. No part of any grant under this section must be used for the purchase of any interest in land.

Senate Amendment

No comparable provision.

Conference Substitute

Same as the House bill.

Limitations

House Bill

Contains prohibitions on use of funds to affect natural watercourses, acquisition of interest in real property, use of funds for maintenance costs and a requirement for on-site labor within 90 days of project approval.

Senate Amendment

No comparable provision.

Conference Substitute

Same as the House bill except that limitations in the House bill are consolidated in this section of the bill.

Priority of projects

House Bill

Assures that at least ½ of 1 percent but not more than 10 percent of funds appropriated will be granted within any one State. Guam, the Virgin Islands and American Samoa together will not receive less than ½ of 1 percent.

The priority to be given applications of local governments is not intended to permit the Secretary to delay consideration of approval of an application from a State government until all local project applications within the State have been received and reviewed. Such a procedure would obviously run counter to the basic objective of initiating project construction quickly. This section is not intended, for example, to preclude the Secretary from receiving an application and making a grant to a State to construct a project in an area of high unemployment where it is clearly demonstrated that the State project will effectively meet the requirements of the Act and will have a significant impact on unemployment by producing jobs quickly and stimulating economic activity.

As long as the national unemployment rate is 6½ percent or more, the Secretary must give priority to applications from areas in excess of the national rate and must thereafter give priority to applications from areas in excess of 6½ percent but less than the national unemployment rate.

Statistics establishing the unemployment rate of an area may be furnished by the Federal Government, States, or local governments as long as the Secretary determines that they are accurate.

70 percent of the funds appropriated must be used for projects in areas that exceed the national unemployment rate in the first priority above and the remaining 30 percent of the funds appropriated must be used on projects in other classifications of priority.

When requested by an applicant, the Secretary, in determining the unemployment rate of a local government, must consider the unemployment in adjoining areas from which the labor force for a project may be drawn. Applicant should relate their projects to local and regional development plans and where possible, submit projects that would implement long-range plans.

Senate Amendment

No comparable provision.

Conference Substitute

Same as the House bill, except that the Secretary shall notify those States and local governments with unemployment in excess of the national average of their eligibility under this title.

Fair labor standards

House Bill

Makes the Davis-Bacon Act applicable to all grants for projects under this act.

Senate Amendment

No comparable provision.

Conference Substitute

Same as the House bill.

Sex discrimination

House Bill

Prohibits any discrimination because of sex on any project receiving grant assistance under this act.

Senate Amendment

No comparable provision.

Conference Substitute

Same as the House bill.

Authorization of program

House Bill

Authorizes up to $5 billion to carry out this act.

Senate Amendment

No comparable provision.

Conference Substitute

Authorizes up to $2.5 billion to carry out this title for the period ending September 30, 1977.

Grants to State and local governments for public works projects

House Bill

No comparable provision.

Senate Amendment

Adds a new section 107 to the Public Works and Economic Development Act of 1965 as follows:

(a) authorizes the Secretary upon application of State or local government to make supplementary grants for Federal aid public works projects in such amount as to bring the Federal share to 100% of cost. Basic grant funds must be immediately available and construction not started because of lack of matching share. Grant funds cannot be used to purchase land.

(b) (1) authorizes grants for cost overruns on Federal projects. Grants are limited to the maximum percentage of the Federal participation authorized.

(2) applications must set forth information on project, its job effectiveness and area to be served by the project. The Secretary must review applications and with the concurrence of the agency funding the project select those projects which best serve the employment objectives of this section.

(c) authorizes grants for construction, repair, renovation of State and local public works projects for which Federal assistance is authorized other than by the Public Works and Economic Development Act. These grants will be 100% grants.

(d) First priority must be given to projects that will have on-site labor within 90 days of project approval in the following order:

1. Supplemental grants authorized by subsection (a)

2. Cost overrun grants authorized by subsection (b) and

3. 100 percent grants authorized by subsection (c)

(e) (1) No more than 15 percent of funds appropriated may go to any one State. At least ½ of 1 percent must be granted to Guam, Virgin Islands, and American Samoa.

(2) No grants may be made for maintenance.

(f) Assistance under this section is available only to designated C.E.T.A. areas and areas designated by the Secretary of Labor as having 6½ unemployment or more for the most recent three months. As long as the the national unemployment rate is 6½ percent or more, the Secretary must give priority to project applications from areas of unemployment in excess of the national average. 70 percent of the funds appropriated must go to these areas. The grant program is suspended when the national unemployment rate goes below 6½ percent.

(g) Section 103 (15 percent limitation to any one state) and Section 104 (prohibition of Title I assistance to Appalachia) of the Economic Development Act do not apply to this section.

(h) Grants are to be made in accordance with the same regulations promulgated for the public facility grants authorized by the Economic Development Act except the Secretary should not consider the severity and duration of unemployment and the income levels of families and extent of underemployment as required by Section 101(d) nor should the Secretary require an Overall Economic Development Plan (OEDP) as required by Section 101(a)(1)(c). Any revision to the regulations must be made within 30 days of enactment.

(i) In selecting projects, Secretary must consider the extent and severity of unemployment, the level and extent of construction unemployment and, extent project will reduce unemployment in the area. Determination on applications must be made within 60 days of receipt.

(j) Unemployment statistics are to be determined by the Secretary of Labor, State or local governments may present the Secretary of Commerce with information on actual unemployment of an area.

(k) Authorizes $1 billion for Fiscal Year 1976.

Conference Substitute

No comparable provision.

TITLE II

Antirecession provisions

House Bill

No comparable provision.

Senate Amendment

Findings of fact and declaration of policy

Section 201 sets out congressional findings concerning the impact of recession on state and local governments and further declares it to be national policy to make state and local government budget-related actions more consistent with Federal efforts to stimulate national economic recovery.

Financial assistance authorized

Section 202 authorizes for each of 5 succeeding calendar quarters (beginning with the calendar quarter which begins on April 1, 1976) $125 million when the national seasonally adjusted unemployment rate reaches 6 percent plus an additional $62.5 million for each one-half percentage point over 6 percent. On an anual basis, that means $500 million would be authorized when the national seasonally adjusted unemployment rate reaches 6 percent and an additional $250 million would be authorized for each percentage point the national seasonally adjusted unemployment rate rises over 6 percent. All unemployment data to be used in the implementation of this title shall, because of limitations on data gathering, be from the quarter ending three months before the quarter in which a payment is to be made.

Section 202 further provides that no funds would be authorized for any calendar quarter during which the national unemployment rate averaged under 6 percent or for any quarter in which the last month's unemployment rate was below.

Allocation

Section 203(a) provides that the Secretary of the Treasury shall reserve one-third of the authorized funds for distribution to State governments and two-thirds of the authorized funds for distribution to local governments.

Section 203(b) provides that allocation to each State government be made according to a formula of its excess unemployment rate times its taxes raised. For a State government, the excess unemployment rate is defined as its unemployment rate during the most recent calendar quarter minus its unemployment rate during 1967–69.

Section 203(c) provides that allocations to local government would be made according to the same formula—excess unemployment rate times adjusted taxes raised.

The excess unemployment rate for local governments is defined as each local government's unemployment rate minus 4.5 percent. The 4.5 percent figure is used as the base period unemployment rate because the Labor Department has no data for local government unemployment rates during the last period that the national unemployment rate was below 4.5 percent. Unemployment over and above 4.5 percent is considered excess unemployment in other Federal programs, such as the Comprehensive Employment and Training Act of 1973.

In the case of local governments, tax collections by each local government are adjusted to exclude taxes raised for education purposes. The reason for this exclusion is that countercyclical assistance is intended to stabilize the budgets of only general purpose governments and those governments should not be given credit for taxes which they did not actually raise.

For each local government for which the Labor Department has verified unemployment statistics (about 1,200–1,500 in all), there would be an allocated share under the formula. For those local governments for which the Labor Department does not have verified unemployment data, funds would be set aside in each State to be distributed according to an allocation plan submitted by the State. If the State did not submit a plan or had its plan rejected by the Secretary, then the Secretary would prepare such a plan. The funds in this category would be distributed by the Secretary.

In computing the allocated share for all other local governments, for which the Labor Department does not have verified unemployment statistics, the aggregate unemployment and tax data for all jurisdictions—other than identifiable jurisdictions in the State—would be entered into the formula, as if they constituted one government, in a balance of State category.

This section also defines the term "local government" as the government of a county, municipality, township, or other unit of government below the State which is a unit of general government (determined on the basis of the same principals as are used by the Social and Economic Statistics Administration for general statistical purposes).

Contingency fund

Sections 204 (a) and (b) provide that the Secretary of the Treasury reserve from the amount authorized for this program for each calendar quarter an amount equal to that not paid to jurisdictions with unemployment less than 6 percent, but in no case more than 10 percent of the total authorized amount for the purpose of making additional emergency support grants to State and local governments which are in severe fiscal difficulty. The Secretary is required to spend at least 75 percent of the contingency fund for grants under this section. No State or local jurisdiction may receive a grant out of the contingency fund that is more than 10 percent of its formula allocation or more than 15 percent of the total contingency fund.

Section 204(c) provides that Puerto Rico, the Virgin Islands, Guam, and the Trust Territories of the Pacific may be eligible for grants out of the contingency fund, though not more than 10 percent of the contingency fund can be spent for that purpose.

Section 204(d) sets out the criteria for determining severe fiscal difficulty.

Use of emergency support grants

Section 205 provides that grants under this program should be used for the maintenance

of basic services ordinarily provided by the State and local governments and that State and local governments shall not use funds received under this Act for the acquisition of supplies and materials or for construction unless essential to maintain basic services.

The funds under this Act are intended to be used to maintain service and employment levels without increasing taxes and not to buy heavy equipment or for major construction projects.

Applications

Section 206(a) establishes an application procedure for State governments and identifiable local governments eligible to receive assistance under the Act.

Section 206(b) provides that applications for payment of funds to other local governments may be filed by the States. This section also delineates requirements that State plans for allocating funds to other local governments must meet.

Section 206(c) provides that the Secretary of the Treasury shall approve any application which meets the requirements of this Act within 30 days and shall not finally disapprove, in whole or in part, any application for an emergency support grant under this Act without first affording the State or local government reasonable notice and an opportunity for a hearing.

Nondiscrimination

Section 207 provides that no person, on the grounds of race, color, national origin, or sex, be excluded from participation in, be denied the benefits, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this legislation.

Labor standards

Section 208 provides that laborers and mechanics employed by contractors on all construction programs funded under this Act be paid wages at rates not less than those prevailing on similar projects in the locality as determined by the Secretary of Labor under the Davis-Bacon Act.

Special reports

Section 209 provides that each State or local government which receives a grant under this Act shall report to the Secretary, within 6 months, any increase or decrease in any tax which it imposes and substantial reductions in employment levels or in services which that jurisdiction provides. It also requires State governments to report any decreases in the amount of assistance they provide local governments.

Payments

Section 210 gives the Secretary of the Treasury the authority to make payments from the funds authorized under this Act. It further allows payments to be made in installments in advance or by way of reimbursement, with necessary adjustments on account of overpayments and underpayments.

Section 210(c) provides that no fund be paid to any State or local government under this Act for any calendar quarter if the unemployment rate within that jurisdiction during the calendar quarter for which the payment is made or during the last month of that quarter was less than 6 percent.

State and local government economization

Section 211 provides that each recipient government must certify in good faith to the Secretary that it has taken steps of its own to economize and that without countercyclical assistance it would not be able to maintain essential service levels without increasing taxes.

Withholding

Section 212 requires the Secretary of the Treasury to withhold funds from any jurisdiction which fails to comply substantially with any of the provisions set forth in the application it submitted for funds under this Act. Funds will continue to be withheld until the Secretary of the Treasury is satisfied that compliance has been achieved.

Reports

Section 213 requires the Secretary of the Treasury to report as soon as practical after the end of each calendar quarter on the implementation of the program.

Administration

Section 214 authorizes the Secretary of the Treasury, after consultation with the Secretary of Labor, to prescribe such rules as may be necessary to carry out the Act. That section also provides the Secretary of the Treasury with the authority to use services and facilities of any agency of the Federal Government and of any other public agency or institution in accordance with appropriate agreements and to pay for such services either in advance or by way of reimbursement as may be agreed upon.

Program

Section 215(a) requires the Comptroller General of the United States to report to Congress within 2 years on the impact of this program in State and local governments and on the macroeconomic impact of this program.

The Comptroller General is directed to conduct such an investigation in coordination with the Congressional Budget Office and the Advisory Commission on Intergovernmental Relations. The committee intends that the Government Accounting Office retain the principal authority in this investigation, and that the Congressional Budget Office focus on the macroeconomic impact of the legislation.

Section 215(b) requires the Director of the Congressional Budget Office and the Advisory Commission on Intergovernmental Relations in coordination with the Comptroller General, to report to Congress within 2 years on the most effective means by which the Federal Government can stabilize the national economy during periods of excess expansion and high inflation through programs directed toward State and local governments.

Conference Substitute

Same as Senate amendment.

(Explanation)

Title II of the Senate amendment provides for the strengthening of the Federal government's role as guarantor of a stable national economy by promoting greater coordination, during times of economic downturn, between national economic policy—as articulated at the Federal level—and budgetary actions of state and local governments. Title II of the Senate amendment would accomplish this purpose by providing emergency Federal assistance to State and local governments hard hit by recessionary pressures, in order to reduce reliance of these governments upon budgetary actions which run counter to Federal efforts to stimulate speedier economic recovery. The assistance provided is designed to meet the following criteria of a limited, anti-recession program:

First, the assistance provided would go quickly into the economy, with as little administrative delay as possible.

Second, the assistance provided is selectively targeted, by means of the formula, to go to only those governments substantially affected by the recession.

Third, the assistance provided would phase itself out, as the economy improves.

A fundamental premise underlying Title II of the Senate amendment is that the amount and quality of government services at the State and local levels should not be determined by national economic conditions over which State and local governments have no control. In other words, the conferees, in accepting Title II, have concluded that it is not sound governmental policy for a jurisdiction to be able to provide good police protection, fire protection, trash collection and public education during good economic times, but be forced to lower the quality of those services significantly, whenever the health of the economy declines.

Impact on Jobs

The Congressional Budget Office, in a report released in September of 1975, measured the job-producing impact of various anti-recession measures. In this report, the CBO found that a program similar to Title II of the Senate amendment could create as many as 77,000 jobs per $1 billion initially, and as many as 97,000 jobs after twelve months. This estimate ranked anti-recession aid to state and local governments second highest of the four alternatives, in its employment impact.

Impact on Government Services

Title II of the Senate amendment will, as the CBO estimated, create thousands of jobs, but it is not designed or intended solely as a jobs program.

To be sure, unemployment is increased when state and local governments lay off workers. But unemployment in the public sector has an even broader impact on national economic recovery.

When a State or local government lays off employees, several things can occur.

First, if the vacant positions are filled with personnel paid for with Federal public service employment funds, then the goal of that Federal effort—to reduce overall unemployment—is blunted.

If the employees laid off are not rehired, they will go on the unemployment rolls. Thus, while payroll costs are reduced, unemployment compensation costs go up.

But the most important impact is on the basic services which State and local governments provide and which make population centers agreeable places in which to live. The demand for these services is as great, if not greater, during bad times as when the economy is healthy.

The demand for certain basic services—such as road maintenance, garbage collection or fire protection—is largely immune to fluctuations in the economy. Through it does not increase during bad times, neither does it decline and allow breathing room in government budgets.

But for many other services, the demand is greater when the economy is depressed. Certain of these services—unemployment compensation, food stamps, welfare benefits—are obviously recession-related. Though some or all of the cost of these benefits may be borne by the Federal Government, the administrative cost falls on the local government which, when hard pressed to meet existing payrolls, are in no position to add more staff to meet these new administrative burdens.

Other, less obvious services are in greater demand during bad times also. High unemployment may result in a higher crime rate or in hgher demands on publicly supported health and mental health services. Families which might ordinarily send a child to a private college may send him to a less expensive State college instead. Or families which had planned to take a vacation might decide to stay at home, and make use of the municipal swimming pool.

While all these pressures are occurring, State and local governments are laying off workers—at just the wrong time.

A case in point is the findings of a recent New York Times News Service survey of big city police departments. The survey found cities like Cleveland, Dallas, Los Angeles, Pittsburgh and Atlanta—all experiencing crime increases of major proportions—cutting back on police personnel or at least not hiring people, because of critical budget pressures.

When events like this occur, it is all the residents of a community who suffer—not just those who are laid off.

Impact on taxes

It must be remembered that reducing employment is not the only way that State and local governments can have an adverse impact on the economy. They can also raise taxes, thereby absorbing some of the stimulative impact of Federal tax cuts already enacted. In addition, while tax increases may allow local governments to keep their own employees on board, they often aggravate the recessionary pressures that already exist.

Title II of the Senate amendment is designed to lessen the possibility of such tax increases.

Who would receive assistance under title II of the Senate amendment?

All the States and all local governments for which certifiable unemployment data now exists under the CETA program (1,200–1,500 jurisdictions) will be eligible for assistance under Title II of the Senate amendment, providing that their unemployment rate is 6 percent or higher.

One third of the money is set aside for the States, two thirds for local governments.

In computing the States' shares, an allocation is determined for each of the 50 States, on the basis of excess unemployment and taxes. Only those States with unemployment of 6 percent or greater would actually receive that allocation. Allocations computed for States with unemployment less than 6 percent are returned to the Treasury, for use in the contingency fund.

Similarly, in computing local governments' shares, an allocation would be determined for each of the 1,200–1,500 jurisdictions, on the basis of excess unemployment and adjusted taxes. Only those jurisdictions with unemployment of 6 percent or greater would actually receive that allocation, with those for jurisdictions with unemployment less than 6 percent returning to the Treasury.

In every State, apart from the identifiable jurisdictions for which specific unemployment data is available, there is a balance of State category (referred to in the bill as "other than identifiable local governments") which includes all other local jurisdictions in the State. A single allocation is determined for the balance of State category as if it were a single unit of government, using adjusted taxes and unemployment for the entire State minus those for the identifiable jurisdictions.

Allocations for balance of State

The balance of State allocation would be distributed by the Secretary, on the basis of a plan drawn up by a State, in consultation with local officials. In the event that a State plan is not provided or is not approved by the Secretary, then the Secretary will draw up a plan for distribution of this money. The distribution plan is to be as much in conformance with the formula as possible. (It is not possible to mandate the use of the formula because of the lack of unemployment data for many jurisdictions in the balance of State.) In the likely event that such unemployment data is not available, then the distribution plans would have to take into account unemployment data for the smallest jurisdiction, in which a balance of State jurisdiction is located, for which data is available. In other words, if a town were located within a labor market or county area for which there was unemployment data, the unemployment rate for the labor market or the county area would be taken into consideration when determining the town's distribution.

Residency requirements

During consideration of this title, the conferees addressed the issue of residency requirements as they might be applied to individuals who are employed with funds from emergency support grants. The conferees state that the federal policy shall be neutral. Specifically, the Secretary shall make no regulation which requires an individual, as a condition of employment, to reside within the jurisdiction of the recipient of an emergency support grant; at the same time, the Secretary shall not prohibit a state or local government from establishing a residency requirement applicable to potential participants in programs using funds from emergency support grants.

The conferees agreed to clarify this matter after discussing problems arising out of Department of Labor regulations under the Comprehensive Employment and Training Program of 1973 (CETA). In New York City, ad elsewhere, CETA funds are presently being used to rehire a limited number of former city employees who lost their jobs due to recessionary pressures or extreme fiscal hardship. In certain job categories, these former employees do not live within the jurisdiction of the prime sponsor, yet they have a determined status on the approved civil service lists. Normally, individuals are hired or laid-off on the basis of these lists, according to seniority. These are rights won by the city employees in collective bargaining. However, Labor Department regulations are being interpreted to require that participants in CETA programs live within the jurisdiction of the prime sponsor, notwithstanding the fact that the regulations also require the prime sponsor to maintain personnel policies and practices for its employees in accord with State and local laws and regulations that adequately reflect federally-approved merit principles. The effect of this interpretation is to deny re-employment with CETA funds to individuals who do not reside within the jurisdiction of the prime sponsor, without regard to the rights of these individuals won in collective bargaining agreements. This situation has created hardships for many individuals and their families.

In order to avoid similar inequities and problems arising from the administration of emergency support grants under the countercyclical program, the conferees emphasize that the federal policy on residency as a condition of employment is one of neutrality. Residency requirements for employees are to be strictly a matter of respective State or local determination, as the case may be.

TITLE III

Interest supplements

House Bill

No comparable provision.

Senate Amendment

Amends section 201(c) of the Public Works and Economic Development Act of 1965 (hereinafter referred to as the "Act" in this statement concerning this title) to increase the authorization for fiscal year 1976 from $75 million to $200 million. It also makes authorization available for the payment of interest supplements to or on behalf of private entities. It also amends section 202(a)(2) of the Act to authorize an interest subsidy up to four percent for up to ten years to private firms of 1,500 employees or less on working capital loans obtained from a nongovernmental source.

Conference Substitute

Same as the Senate amendment as to the increase in authorizations; however, the conferees intend that the Secretary be authorized to pay to or on behalf of a private borrower an amount sufficient to reduce up to four percentage points the interest paid by such borrower on any loan guaranteed by the Secretary under this section. These payments must be made no less than annually and no obligation shall be made by the Secretary to make any payment under this paragraph for any loan guaranty made after December 31, 1976.

It is intended that this provision is to be an antirecessionary tool, to be used to aid firms suffering effects of the current recession. Additionally, this interest subsidy is to be used when no reasonable interest rate is available in the private lending market, that is, the subsidy is to be used during times of high interest rates or when such interest rates would be prohibitively expensive for a firm in need of financial assistance to continue current operations. The language limits this subsidy to one calendar year, through December 31, 1976, so that the Committees may have an opportunity to review this program to determine its effectiveness in meeting financial needs of eligible firms.

Lastly, the Conferees agreed that entities employing less than 1500 people should have preference for such interest subsidies. An entity may be an autonomous corporation, a wholly owned subsidiary of a parent corporation, a plant of a corporation, or the like, but it is not in any way restricted to an autonomous corporation.

Urban economic development

Conference Substitute

The conference substitute adds a new section 405 to the Act to authorize the Secretary to designate as a "redevelopment area" any city with a population of 50,000 or more as long as it submits and has approved by the Secretary an overall economic development program in accordance with Section 202(b)(10) of the Act. Nothing in this section is intended to be construed as to prohibit the designation of a city as a "redevelopment area" or a part thereof under this section in addition to its designation as a "redevelopment area" under any other provision of this Act. Also, this section should not be construed to prohibit a city designated under this section and another provision of this Act from receiving assistance through the expenditure of funds both under this section and any other provision in this Act.

If a city designated under this section prepares a plan for the redevelopment of the city or a part of it and submits its plan to the Secretary, and the Secretary approves such plan, he is authorized to make a grant to the city for the purpose of carrying out the plan. Any grant made by the Secretary on this section must be made on the condition that the city will use such grant to make grants or loans or both to carry out the plan and that the repayments of any loans to the city be placed in a revolving fund by the city to be available for making other grants or loans by the city upon the approval of the Secretary for the redevelopment of the city. $50 million for fiscal year 1976 and $50 million for the transition period are authorized to carry out this section.

In determining eligibility of cities for assistance under this section, it is intended that a city must have a population of 50,000 persons or more according to the latest decennial or subsequent special census counts as reported by the Bureau of the Census. When the published population estimates of the Bureau of the Census are used to determine eligibility, the Secretary may allow up to a five percent variation in population estimates in order to reflect changes in population since the last official census.

In defining the term "city" in Section 405(a)(B)(iii) it is the intent of the Conferees that a city either contains within its boundaries no incorporated places as defined by the Bureau of the Census or contains 50,000 people outside the boundaries of all incorporated places which are located within the city. In those cases where a township has a population of 50,000 or more outside of incorporated places, any funds authorized under this Act may be used only outside the corporate limits of those places.

Definitions

House Bill

No comparable provision.

Senate Amendment

Amends Section 1002 of the Act to delete, in the definition of eligible area, areas designated pursuant to Section 401 of the Public Works and Economic Development Act. In addition, if the national unemployment rate is 6½ percent or more, the Secretary must give priority to project applications for areas of unemployment in excess of the national average—70 percent of the funds appropriated must go to these areas. The grant program is suspended when the national unemployment rate goes below 6½ percent. Not more than 15 percent of funds appropriated may go to any State and at least ½ of 1 percent be used for projects in Guam, Virgin Islands and American Samoa.

Conference Substitute

Restores original definition of areas eligible for assistance under Title X as currently defined in the Act and transfers the priority language contained in the Senate amendment to section 1003(c) of the Act.

Programs authorized

House Bill

No comparable provision.

Senate Amendment

Amends Sec. 1003(c) of the Act to delete Secretary's authority to initiate programs and authorizes him to assist eligible areas make applications for grants.

(b) Amends Sec. 1003(d) to make funds available only for projects where the Secretary determines that the project gives consideration to the needs of the unemployed in the area, that the project can be started promptly and be substantially completed within 12 months, and that priority is given to projects that are most job effective.

(c) Eliminates Secretary of Labor and existing criteria from Section 1003(e).

Conference Substitute

Same as Senate amendment except that the Secretary must give priority to programs and projects which are most effective in creating and maintaining productive employment, including permanent and skilled employment, measured as the amount of such direct and indirect employment generated and supported by the additional expenditures of Federal funds under this title, and must consider the appropriateness of the proposed activity to the number and needs of the unemployed persons in the eligible area.

The Conference Committee is concerned about the procedure used in the selection of programs and projects under the Jobs Opportunities Program in the first year. Based on the results of the first experiences under this program, it is doubtful that a solely mechanistic selection process can achieve the full potential and desired effect of the program. The Conference Committee can understand the need for assistance from a computer when dealing with such a large and diverse number of programs in a very short time. It would appear, however, that individual judgment will need to be exercised in order to achieve the desired results. Congress intended when it passed Title X, and this bill is designed to reinforce the intent, that the Secretary undertake a project-by-project evaluation so that the most job-effective activities are selected.

The Economic Development Administration is the only Federal agency whose mission is long-term economic development and the creation of jobs. Based on the agency's long experience and background, it is the most logical choice to administer the Jobs Opportunities Program. As indicated before, judgment must be exercised in the administration of the program and EDA's long experience gives it the expertise to make these judgments. As this program is an addition to EDA's regular long-term responsibilities, the Conference Committee wants to make clear its intent that EDA be given the responsibility for directing and administering the Title X program.

Program review

House Bill

No comparable provision.

Senate Amendment

Amends Section 1004 of the act to require a review within 45 days of enactment or appropriation by every Federal department or agency of its development plans and budget to evaluate their programs and projects for job creation for which funds are proposed or could be obligated with Federal assistance in the calendar year; and submit to the Secretary programs and projects which have the greatest potential to stimulate the creation of jobs in the area. The Secretary, within 45 days of receipt, shall review projects and allocate in conformity with priorities set forth in the Title.

States and political subdivisions in any eligible area may submit their project applications to the appropriate Federal agency for Federal assistance under this Title. The Secretary in reviewing programs and projects for any eligible area must give priority to those sponsored by States and political subdivisions.

Conference Substitute

Same as the Senate amendment except that the conferees want to make clear that the provision in the Act requiring agencies to evaluate programs and projects for which funds are to be obligated is not intended to allow an agency to replace other appropriated funds with funds received under title X. The provision is intended to direct agencies to review their plans and budgets to determine if their regular programs are being used in the most effective job-creating way at this time of such high national unemployment.

Limitation on use of funds

House Bill

No comparable provision.

Senate Provision

Strikes from the Act section 1005 which requires that 50 percent of funds appropriated are to be used on projects where not more than 25 percent of the funds will be expended on non-labor costs.

Conference Substitute

Same as the Senate amendment.

Rules and regulations

House Bill

No comparable provision.

Senate Amendment

Amends Section 1006 of the Act, which requires equitable distribution of funds between urban and rural areas, to add a condition that such distribution is not necessary if it would require grants in areas that would not meet the criteria of the title.

Conference Substitute

Same as Senate amendment.

Authorizations of appropriations

House Bill

No comparable provision.

Senate Amendment

Amends section 1007 of the Act to authorize $1 billion for Fiscal Year 1976 and makes the funds available for obligation until June 30, 1976.

Conference Substitute

Amends Section 1007 of the Act to authorize $500 million for Fiscal Year 1976 and makes the funds available for obligation until September 30, 1976. In addition, a new subsection is added to make clear that funds authorized to carry out this title shall be in addition to, and not in lieu of, any funds authorized by other provisions of law.

Title X funds shall be used to provide additional funds for projects eligible under this Act. These funds are not intended to take the place of funds which have already been budgeted by another agency or are part of the future budget of another agency. Title X funds shall be used to supplement existing programs rather than to substitute for funds that would have been expended or are about to be expended through another program or agency.

Termination date

House Bill

No comparable provision.

Senate Amendment

Amends section 1008 of the Act to extend the termination date of this title to June 30, 1976.

Conference Substitute

Amends section 1008 of the Act to extend the termination date of this title to September 30, 1976.

Limit on authority to obligate

House Bill

No comparable provision.

Senate Amendment

Authority to obligate appropriated funds under amendments of this Act to Title I and X of the Public Works and Economic Development Act is limited to $2 billion when the national unemployment rate is 9 percent or more. For each quarterly decline of ½ of 1 percent, the authority of the Secretary to obligate funds is reduced by ¼ of funds appropriated not to exceed ½ billion. For each increase of ½ of 1 percent up to 9 percent the authority of the Secretary to obligate appropriated funds is increased by ¼ not to exceed ½ billion.

Conference Substitute

No comparable provision.

Notice to eligible areas

House Bill

No comparable provision.

Senate Amendment

Requires the Secretary of Commerce to notify in a timely and uniform manner areas of their eligibility for assistance under this Act.

Conference Substitute

Requires the Secretary of Commerce to notify in a timely and uniform manner state and local governments having areas eligible for assistance under this title.

Construction costs

Conference Substitute

Title X of the Act is further amended by adding a new section 1008 to make clear that no program or project originally approved for funds under an existing program be ineligible for assistance under this title solely because of increased construction costs.

The Conference Committee wishes to clarify its intent that Title X funds may be used to cover construction cost overruns if the project meets the other requirements of this Act. If a community has received a grant or supplemental grant for a project and the project is presently halted due to inflation or increased construction costs, which have increased the total project cost beyond the amount of the original grant, Title X funds may be used to cover this cost increase.

Expiration of amendments to the Public Works and Economic Development Act

House Bill

No comparable provision.

Senate Amendment

Requires that all amendments to the Public Works and Economic Development Act of 1965 made by this Act shall expire on June 30, 1976.

Conference Substitute

No comparable provision.

Allotment of wastewater treatment works construction grant funds

House Bill

No comparable provision.

Senate amendment

Section 301(1) amends section 205(a) of the Federal Water Pollution Control Act and requires the Administrator to reallot the $9 billion for construction of publicly-owned wastewater treatment works which was allotted in February 1975 by the Administrator of the Environmental Protection Agency in accordance with the formulas prescribed in the Act. The new allotment formula is based one-half in the ratio that the population of each State bears to all the States, and one-half on the basis of Table SP–3 in the final report to Congress dated February 10, 1975, as revised May 6, 1975, entitled, "Cost Estimates for Construction of the Publicly-Owned Wastewater Treatment Facilities, 1974 'Needs' Survey." In no case, however, would the allotment of any State be reduced below such amount as may have been obligated from the February 1975 allotment prior to the date of enactment of this provision. Section 301 (2) requires that funds authorized for fiscal years which begin after the fiscal year ending June 30, 1975, shall be allotted among the States one half in the ratio that the population of each State bears to the population of all States, and one-half of the basis of table SP–3 in the final report to Congress dated February 10, 1975, entitled "Cost Estimates for the Construction, on Publicly-Owned Wastewater Treatment Facilities, 1974 'Needs' Survey."

Conference substitute

Section 311(a) of the conference substitute authorizes an appropriation of $1,417,968,050 for the fiscal year ending September 30, 1977, for grants for the construction of publicly-owned wastewater treatment works, pursuant to Title II of the Federal Water Pollution Control Act. This authorization is subject to such amounts as are provided in appropriation Acts. The authorized sums shall be allotted to the eligible States in accordance with the percentages provided in Column 5 of table IV contained in House Public Works and Transportation Committee Print numbered 94–25. This table sets forth the percentages for each state to be used by the Administrator of the Environmental Protection Agency in allotting funds pursuant to this section. Those States eligible to receive allotments pursuant to this section are those which would have received a greater allotment than they actually received had the Senate amendment been utilized by the Administrator in February 1975 to allot the $9 billion. Funds allotted pursuant to this section shall remain available until expended.

The conference substitute requires the Administrator, within 45 days from the date of enactment of this section, to report to Congress his recommendations for a formula or formulas to be used to allot equitably new authorizations of funds to carry out Title II of the Federal Water Pollution Control Act. This reporting requirement was added by the Conferees to provide a possible basis for allotments of future authorizations.

Conference Substitute

The conferees agreed to an amendment to the title of the bill to more accurately reflect the text proposed in this conference substitute.

ROBERT E. JONES,
JIM WRIGHT,
HAROLD JOHNSON,
ROBERT ROE,
BELLA S. ABZUG,
Managers on the Part of the House.
JENNINGS RANDOLPH,
EDMUND S. MUSKIE,
JOSEPH M. MONTOYA,
QUENTIN BURDICK,
ABRAHAM RIBICOFF,
JOHN GLENN,
HOWARD BAKER,
JAMES BUCKLEY,
JAMES A. MCCLURE,
JACOB JAVITS,
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 7656, BEEF RESEARCH AND INFORMATION ACT

Mr. POAGE. Mr. Speaker, I call up the conference report on the bill (H.R. 7656) to enable cattle producers to establish, finance, and carry out a coordinated program of research, producer, and consumer information, and promotion to improve, maintain, and develop markets for cattle, beef, and beef products, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of December 10, 1975.)

Mr. POAGE (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the statement.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER. The Chair recognizes the gentleman from Texas.

Mr. POAGE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I know the House is anxious to adjourn because of the late hour. We have here a very simple matter. I am going to give to those who are opposed to the conference report exactly the same time as to those who support it.

Mr. Speaker, H.R. 7656 is a bill which would enable the cattle producers to establish, finance, and carry out a coordinated program of research, producer and consumer information and promotion to improve, maintain, and develop markets for cattle, beef, and beef products. The bill does not involve the expenditure of Government funds—only assessments paid by cattle producers. The program is entirely voluntary since each producer may obtain a refund from the Beef Board of any assessments that he might have paid.

The conference report represents a compromise between the positions of the two Houses that strengthens and improves the act while preserving the important features of the bill adopted by the House. I would like to summarize for my colleagues the changes made by the conference report in the bill previously adopted by the House.

First. The conferees agreed to a Senate amendment that no advertising, consumer education, or sales promotion programs established under the act shall make use of: No. 1, false or misleading claims in behalf of cattle, beef, or beef products, or No. 2, false or misleading statements with respect to quality, value, or use of any competing product. There was no comparable provision in the House bill.

Second. The conferees agreed to a Senate amendment which specifically authorizes the Secretary to make appointments to the Beef Board which administers the program from nominations submitted by general farm organizations. The House bill did not contain a comparable provision, although the report of the House committee stated it was intended that general farm organizations be considered for certification as eligible to make nominations.

Third. The conferees agreed to a Senate amendment which deleted the requirement in the House bill that the annual budget of the Beef Board must be approved by the House and Senate Agriculture Committees. Under the provision agreed to by the conferees, copies of the budget would still be required to be submitted to the House and Senate Agriculture Committees. The budgets do not involve appropriated funds but only assessments voluntarily committed by producers to the research and promotion effort. If either committee should find in the budget any item that would be of special concern to the Congress it would still be in a position to make its views known to the Secretary prior to his approval of the budget.

Fourth. The conferees agreed to an amendment of the Senate with a technical change that would establish a limit of one-half of 1 percent on the aggregate rate of assessment that could be provided for under the program. It is believed that this should provide more than adequate funds for carrying out the program for the foreseeable future. If additional funds should be needed at a later date, the matter should be reconsidered by the Congress. It is estimated that the initial assessment would probably be in the amount of three-tenths percent so that the limit set forth in the amendment should allow from for growth should this prove necessary.

Fifth. A compromise was reached between the Senate and House provisions regarding the conduct of the referendum among cattle producers that is needed to bring the program into effect. Under the House bill the Secretary is to register the producers not less than 10 days prior to the date of the referendum. The order to be effective must be approved by at least two-thirds of the producers voting in the referendum, and at least 50 percent of the registered producers must vote in such referendum.

The Senate amendments deleted the registration requirement of the House bill and otherwise modified the referen-

dum provision. Under the Senate amendments, the order would not be effective unless it is approved by not less than two-thirds of the producers voting in the referendum, or by a majority of producers voting in the referendum if such majority owned not less than two-thirds of the cattle owned by producers voting in the referendum. Also, the Senate amendments deleted other provisions of the House bill relating to the referendum.

The conference committee agreed to the Senate amendments with certain modifications. It deleted the requirement in the House bill for producers to make two trips to the county office in connection with the referendum. Under the conference report producers must still submit evidence of their eligibility to vote but it would be done at the time of voting. A detailed procedure is provided under which any person may challenge the eligibility of any person who voted in the referendum. The Secretary is to insure that information with regard to voting and challenging of ballots is generally publicized.

The conference report retains in strengthened form a House provision which assures that the Government is reimbursed for its out-of-pocket expenses incident to the conduct of the referendum whether or not the order is approved. These expenses would include all costs incurred by the Government—except salaries of Federal employees—and would include such items as those costs incurred in connection with the hearings and preparation and printing of ballots.

Sixth. There were other miscellaneous changes made in the House bill. One would require that no penalty for violations is applicable unless the violation is willful and that the maximum penalty which may be collected shall not exceed $1,000, and not $10,000 as provided in the House bill. The penalty would, of course, be in addition to any assessment payable by the producer or slaughterer. Also agreed to was a provision exempting from assessment cattle slaughtered for home consumption by a producer who has been the sole owner of the cattle, and a provision requiring rather than authorizing the Beef Board to appoint an executive committee to handle routine business.

The House prevailed on other provisions of the bill. Among those provisions was an agreement by the conferees to delete from the Senate bill a section that would have required at least 25 percent of the Beef Board, Egg Board, Cotton Board, Potato Board, and Wool Council to be appointed by the Secretary from nominations submitted by the membership of bona fide consumer organizations.

However, the conferees intend that the Beef Board solicit consumer input—ideas, suggestions, and recommendations—on problems that need attention and projects that deserve priority. Accordingly, the conferees recommend that the Secretary appoint five consumer advisers to the Beef Board. Such advisers shall be persons determined by the Secretary to be knowledgeable in nutrition and food. It is expected that the Beef Board shall reimburse the consumer advisers for the reasonable expenses they incur in performing their duties as advisers.

Mr. Speaker, H.R. 7656 is a good bill and in the interest of both producers and consumers. I urge the Members of the House to join me in voting for adoption of the conference report.

Mr. SEBELIUS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I associate myself with the remarks of the gentleman from Texas (Mr. POAGE).

Mr. Speaker, the beef cattle industry leaders of America have proposed a new and far-reaching self-help plan: First, a plan aimed at promoting more efficient and economical production of beef; second, strengthening the economy of the cattle industry; and third, assuring consumers of an adequate and reliable supply of beef at prices they can afford. This plan, known as the Beef Research and Information Act, H.R. 7656, will be producer financed at no cost to the taxpayer.

H.R. 7656 will establish research funds to improve beef marketing, develop new and different beef products, and develop new techniques in the preparation and preservation of meat products. The plan also calls for continued nutritional research that will benefit consumers who desire more knowledge of the nutritional value of beef and beef products.

The program will also authorize more research on cattle and forages for more efficient and economical beef production. There is a need to conduct research on cattle diseases, cattle feed rations and efficiency, genetics and environmental considerations. At the moment the industry is facing a standstill in developing new means to increase production—with little Federal money committed to further agricultural research in this important area.

The program will also help develop better means of product distribution. There is a need to move beef from the point of production to the point of consumption as efficiently as possible—improving processing, transportation, storage, and handling. Such improvements could be a factor in lowering retail beef prices. The Beef Board may at its discretion supply producers with current and projected supply and demand statistics. This will help producers in the prices they receive for beef and consumers in the prices they pay for beef.

H.R. 7656 will also enable the Beef Board to develop foreign markets to allow production to be maintained at full capacity and provide a climate of stability for the industry. This would benefit the U.S. balance of payments through increased marketing abroad while boosting our domestic economy.

Under this program, the cattlemen will spend their own money on beef production and marketing research designed to improve beef production efficiency and minimize fluctuations in supply. This will help producers in the prices they receive for cattle and consumers in the prices they pay for beef.

Again, I emphasize that this program will cost the Government nothing. The act sets a precedent for other agricultural check-off programs by requiring cattlemen to post a bond to cover referendum expenses or the administrative cost in auditing or other miscellaneous expense.

It is obvious that most cattlemen favor this self-help approach to solving their problems. However, if an individual cattleman does not wish to participate, he may request a refund of the modest deduction and get it. In this way, the program is voluntary and democratic.

I feel this bill is a credit to the many farmers and ranchers who comprise this Nation's livestock industry. The livestock industry has experienced hard times and seesaw markets in recent years, but beef producers are strong willed and self-reliant independents who do not ask for handouts. Rather they ask only for legislation which will allow them to spend their own money to promote their product through research and education. I urge my colleagues to support this legislation and allow the livestock industry to establish a truly self-help program.

Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia (Mr. WAMPLER).

Mr. WAMPLER. Mr. Speaker, I rise in support of the conference report on H.R. 7656, the Beef Research and Information Act.

This bill has broad support from cattle producers and hopefully will go a long way toward improving marketing conditions for cattlemen throughout the Nation.

In our consideration of this measure in conference we found that the other body had refined and improved this bill in several areas. Thus the House conferees accepted amendments that—

First, provide that no advertising, consumer education, or sales promotion programs established under the act shall make use of: No. 1, false or misleading claim in behalf of cattle, beef, or beef products, or No. 2, false or misleading statements with respect to quality, value, or use of any competing product;

Second, require in the appointment of the executive committee that the members of the committee be more broadly representative of the industry;

Third, authorize the Secretary to make appointments to the Beef Board from nominations submitted by general farm organizations;

Fourth, provide that cattle slaughtered for home consumption by a producer who has been the sole owner of such cattle shall not be subject to assessment;

Fifth, provide that the aggregate rate of assessment shall not exceed one-half of 1 percent; and

Sixth, provide for a $1,000 maximum civil penalty.

There were only three matters in serious dispute in the conference.

The first involved consumer representation. The House position prevailed. The

position of the other body had previously been rejected in the House debate and the conferees correctly, I believe, felt that this beef bill should not be a vehicle for amending the Wool Act, the cotton or egg programs, or other commodity programs.

Another issue developed over the posting of a bond by the sponsors of the proposed beef program prior to the referendum. The House position prevailed and all out of pocket expenses—except Government employee salaries—will be paid for by the Beef Board and as far as the referendum is concerned will be subject to the surety requirements of the bill.

This provision, incidentally, is a new feature in commodity promotion legislation and it should be carefully considered and be made a part of other such programs in the year ahead.

Finally, the referendum voting procedures were changed. I will not go into detail beyond that set forth by the gentleman from Texas (Mr. POAGE) other than to say this was and is the most difficult provision to reconcile in the bill.

The conferees have tried to set up a fair system that takes into account both points of view as expressed by the cattlemen and by farm organizations.

In summary, Mr. Speaker, I believe we have produced a good conference report and a constructive bill that will serve well the Nation, agriculture in general and beef producers in particular.

Mr. SEBELIUS. Mr. Speaker, I yield 1 minute to the gentleman from Arizona (Mr. STEIGER).

Mr. STEIGER of Arizona. Mr. Speaker, I would like to point out that this is not, in the opinion of many of us, a superior product to the product that left the House. In fact, it was so disturbing to at least one major farm organization, the Farm Bureau, that they have now switched their support of the bill and are opposed to the bill in its present form.

My friends, those Members who are concerned with this matter because the consumers are not represented, the consumers are still not represented. Those Members who are concerned about this bill, as I am, because there is a mandatory checkoff guaranteeing the staff a $60 million sinecure, with no incentive for quality and no solution for the cowman because there is no way for the staff to accommodate all of the cowmen who are going to go broke over the next 5 years, the fact is that this is a false promise in its present form absent the Melcher language that was in the House bill. This bill allows a few large cattlemen to dominate the process, making it even a more untenable piece of legislation.

Mr. Speaker, I hope the Members will vote no. I hope they will force the bill to go back to conference and at least remedy the inequities that are in the process right now.

Mr. POAGE. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. RICHMOND).

Mr. RICHMOND. Mr. Speaker, this conference report is bad news for America's consumers and for America's smaller, family-owned cattle producers. It is bad news for consumers because it is going to cost the consumer $60 million more on his food bill. It is bad news for the cattlemen because this bill only benefits large corporate interests. It does not benefit small cattlemen.

The bill was bad enough before it went to conference committee, but as a result of Senate action, the bill is even worse.

The referendum in this bill is weighted only in favor of the large producers. The more cattle you have, the bigger your vote. Basically, as I said, this referendum is weighted only in favor of the large corporate cattle owner. The small farmer is out. If a man has a thousand cattle, he has a thousand votes. If he has 100 cattle, he has 100 votes. So we can say this bill is only good for the big agribusiness corporations.

Finally, even though Senator Muskie put an amendment in the bill to add the consumer representation, it was taken out in conference committee. So there is not even any consumer representation in this bill. It is a bad bill for the consumer, it is a bad bill for the cattlemen, the small cattlemen. It is only good for the big agribusiness corporations.

Mr. Speaker, I urge everyone in the Chamber to please vote against this bill and send it back to conference.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. RICHMOND. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Speaker, is the gentleman from New York saying that this bill provides for one cow-one vote?

Mr. RICHMOND. The gentleman is correct. That is the kind of a bill it is.

Mr. SEBELIUS. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Speaker, I rise in opposition to this conference report on the "beef check-off" bill, and I urge my colleagues to vote against it.

I have spoken against this bill before and made some jokes about how it is a "bum steer" and how its passage would make this body known as the "rump-roast Congress." I regret to see that the point of my satire was not taken, and that this bill has now progressed into a conference report. So it is time to put humor aside and talk about the facts.

And the facts are that this legislation would be expensive, unnecessary, and would benefit a special interest group without consideration of consumer interests.

This bill would raise meat prices to consumers by up to $60 million a year. But consumers would not get any benefits from this higher cost. Instead, this $60 million would be used to underwrite advertising campaigns that would tell consumers to eat more beef. This is throwing money down the trough. Americans are now eating more beef on the average than any time in our history. I would suggest that this huge publicity campaign might backfire, and that consumers would buy less meat as soon as the prices started to rise to pay for the ad campaign.

I want to express my opposition to this bill on another ground. I am outraged and dismayed that the conferees stripped the Beef Board of its consumer representation. The conference report before us provides that this bloated Beef Board shall have five consumer advisers, but none of the consumer representatives is given any voting power. In my mind, that leaves the consumer advisers' role in the Beef Board meaningless.

Mr. Speaker, as much as I am concerned about the impact of this bill on consumers, I also want to raise the concern that it will impose a costly tax on beef farmers that they can ill afford. They will be paying a hefty "check-off" on each cow they send to market, but I would doubt very strongly that they will be sending any extra cows to market because of this "check-off."

I can only figure out one explanation for this bill: It is another attempt to bail out New York City. That is where the group is that stands to benefit from this legislation—and I am referring to the advertising agencies on Madison Avenue. They are the people who will wind up with most of this $60 million, while consumers will find less beef on the table and cattle farmers will find their market shrinking instead of expanding.

I urge my colleagues to defeat this conference report.

Mr. POAGE. Mr. Speaker, the proponents have only used 2 minutes, and I will now yield 2 minutes to the gentleman from Montana (Mr. MELCHER).

Mr. MELCHER. Mr. Speaker, I thank the esteemed chairman of my subcommittee on Livestock and Grains.

Two major changes were made in the conference. First of all, the bill as it passed the House contained a period of time of 10 days for notification to all cattle owners to become eligible by either mailing in a registration or stop in at the ASC office to register and thus become eligible to vote on the referendum.

The second part that was changed in conference came about because the Senate insisted that a simple majority of those voting, if they owned two-thirds of the cattle involved of those voting, would carry the referendum, whereas the House in its provision was much more selective. It said a majority of those eligible had to vote, that two-thirds of those voting in the referendum had to vote for the referendum, period. The Senate provision gave weighted voting based on the ownership of two-thirds of the total cattle numbers of those voting.

Mr. Speaker, I have a great deal of respect for all the cows, heifers, steers, and bulls involved in the referendum, but I am not in favor of weighted voting for cattle even if it is to help carry the referendum. I do not believe that is the way we ought to run the referendum.

For that reason Mr. Speaker, I am going to vote for the motion to recommit that will be offered by the gentleman from Illinois (Mr. MADIGAN) because I think this bill needs to go back to the conference. I think it needs to be corrected and brought back to about the same shape on the referendum as it was when we passed it out of the House. It would certainly be a much fairer bill then.

Mr. SEBELIUS. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I would like to respond for a moment to the statements about the Farm Bureau that were made here. I do not think there is a Member here who has more to do with the Farm Bureau than I do in my 57 counties, and I know all of them are in favor of this bill for the cattlemen. They have gone through the wringer, and they are trying to work out something for themselves.

I did for one, try to have all the input I could to see that the money is used for research. The Department of Agriculture does not get to use nearly enough money for research to help out with the problems of the cattlemen.

Therefore, Mr. Speaker, I urge in very great sincerity that we agree to this conference report here tonight.

Mr. POAGE. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon (Mr. WEAVER).

Mr. WEAVER. Mr. Speaker, as a member of the conference committee on this bill I did not sign the conference report, even though I am very sympathetic to beef producers.

I eat a lot of beef, and so do most Americans. As a matter of fact, in the last 15 years the consumption of beef per capita has gone up sharply in this country, from 50 percent to 65 percent of the beef market. This has been accomplished without any promotional scheme whatsoever. As a matter of fact, it is to the detriment of producers of many other meat commodities and to the producers of eggs and poultry.

This should be evidence enough that there is no need for further promotion, and, particularly, one which allows two-thirds of the cattle—not two-thirds of the cattle producers but two-thirds of the cattle—to put the promotion into effect. This would put $60 million a year—and this is going to come out of the pockets of consumers when they buy the beef—into the hands of a few people to use pretty much as they wish.

Mr. Speaker, I urge the Members of the House to vote to recommit the conference report.

Mr. SEBELIUS. Mr. Speaker, I yield back the balance of my time.

Mr. POAGE. Mr. Speaker, in an effort to accommodate the House, we will take no more time. I simply state that I support the conference report.

The SPEAKER. Without objection, the previous question is ordered on the conference report.

There was no objection.

MOTION TO RECOMMIT OFFERED BY MR. MADIGAN

Mr. MADIGAN. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the conference report?

Mr. MADIGAN. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. MADIGAN moves to recommit the conference report on the bill H.R. 7656 to the committee of conference.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. CONTE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 263, nays 112, not voting 59, as follows:

[Roll No. 790]

YEAS—263

Abzug	Fithian	Miller, Calif.
Alexander	Flood	Miller, Ohio
Allen	Florio	Mills
Ambro	Flowers	Minish
Archer	Ford, Tenn.	Mitchell, Md.
Ashbrook	Forsythe	Mitchell, N.Y.
Ashley	Frenzel	Moakley
Aspin	Frey	Moffett
AuCoin	Giaimo	Mollohan
Badillo	Gibbons	Moorhead, Calif.
Baldus	Gilman	Moorhead, Pa.
Barrett	Gradison	Morgan
Bauman	Gude	Mosher
Beard, R.I.	Hagedorn	Mottl
Beard, Tenn.	Haley	Murphy, Ill.
Bedell	Hall	Murphy, N.Y.
Bennett	Hamilton	Murtha
Biester	Hannaford	Myers, Ind.
Bingham	Harrington	Myers, Pa.
Blanchard	Harris	Natcher
Blouin	Harsha	Neal
Boland	Hastings	Nedzi
Bonker	Hawkins	Nix
Brademas	Hayes, Ind.	Nolan
Brodhead	Hechler, W. Va.	Nowak
Broomfield	Heckler, Mass.	Oberstar
Brown, Mich.	Hefner	Obey
Brown, Ohio	Heinz	O'Brien
Broyhill	Helstoski	O'Hara
Buchanan	Henderson	Patten, N.J.
Burke, Calif.	Hicks	Patterson, Calif.
Burke, Mass.	Holland	Pattison, N.Y.
Burleson, Tex.	Holt	Perkins
Burton, Phillip	Holtzman	Pettis
Butler	Horton	Peyser
Carter	Howe	Pike
Chisholm	Hubbard	Pressler
Clancy	Hughes	Preyer
Clawson, Del	Hungate	Price
Cleveland	Hutchinson	Pritchard
Cohen	Hyde	Quillen
Collins, Tex.	Ichord	Railsback
Conable	Jacobs	Rangel
Conte	Jones, Okla.	Regula
Corman	Jordan	Reuss
Cornell	Kelly	Rhodes
Cotter	Kemp	Richmond
Crane	Keys	Rinaldo
D'Amours	Kindness	Robinson
Daniel, Dan	Koch	Rodino
Daniel, R. W.	LaFalce	Roe
Danielson	Latta	Rogers
Davis	Leggett	Roncalio
Delaney	Lent	Rooney
Dellums	Levitas	Rosenthal
Dent	Lloyd, Tenn.	Rostenkowski
Derrick	Long, Md.	Roush
Derwinski	Lujan	Rousselot
Devine	McClory	Roybal
Dodd	McCloskey	Runnels
Downey, N.Y.	McCormack	Ruppe
Downing, Va.	McDade	Ryan
Drinan	McDonald	Sarasin
Duncan, Tenn.	McEwen	Satterfield
du Pont	McHugh	Scheuer
Early	McKay	Schroeder
Eckhardt	McKinney	Schulze
Edgar	Madden	Seiberling
Edwards, Ala.	Madigan	Sharp
Edwards, Calif.	Maguire	Shipley
Eilberg	Mann	Shuster
Erlenborn	Martin	Slack
Evans, Colo.	Mazzoli	Snyder
Evans, Ind.	Melcher	Solarz
Evins, Tenn.	Meyner	Spellman
Fary	Mezvinsky	Spence
Fascell	Michel	Staggers
Fenwick	Mikva	Stanton, J. William
Fisher	Milford	Stanton, James V.
Stark	Sullivan	Wilson, Tex.
Steed	Tsongas	Wolff
Steiger, Ariz.	Van Deerlin	Wydler
Steiger, Wis.	Vander Veen	Wylie
Stokes	Vigorito	Yates
Studds	Walsh	Yatron
	Weaver	Young, Fla.
	Whalen	Young, Ga.
	Whitehurst	Zablocki
	Whitten	Zeferetti

NAYS—112

Abdnor	Goldwater	Moore
Anderson, Calif.	Gonzalez	Nichols
Anderson, Ill.	Goodling	O'Neill
Andrews, N. Dak.	Grassley	Passman
Armstrong	Hammer-schmidt	Patman, Tex.
Bafalis	Hanley	Pepper
Baucus	Hansen	Pickle
Bergland	Harkin	Poage
Bevill	Hays, Ohio	Quie
Boggs	Hightower	Randall
Bowen	Jeffords	Rose
Breaux	Johnson, Calif.	Santini
Breckinridge	Johnson, Colo.	Sebelius
Brinkley	Johnson, Pa.	Shriver
Brooks	Jones, Ala.	Sikes
Brown, Calif.	Jones, N.C.	Sisk
Burgener	Jones, Tenn.	Skubitz
Burlison, Mo.	Kasten	Smith, Iowa
Byron	Kastenmeier	Smith, Nebr.
Carney	Kazen	Steelman
Casey	Ketchum	Stephens
Cederberg	Krebs	Stratton
Chappell	Krueger	Symms
Clausen, Don H.	Lagomarsino	Talcott
Clay	Landrum	Taylor, Mo.
Cochran	Lehman	Taylor, N.C.
Conlan	Litton	Thone
de la Garza	Lloyd, Calif.	Thornton
Dingell	Long, La.	Traxler
Duncan, Oreg.	Lott	Treen
English	McCollister	Waggonner
Findley	McFall	Wampler
Flynt	Mahon	White
Fountain	Matsunaga	Wiggins
Fuqua	Meeds	Wilson, Bob
Ginn	Mineta	Winn
	Mink	Wright
	Montgomery	Young, Tex.

NOT VOTING—59

Adams	Foley	Risenhoover
Addabbo	Ford, Mich.	Roberts
Andrews, N.C.	Fraser	Russo
Annunzio	Gaydos	St Germain
Bell	Green	Sarbanes
Biaggi	Guyer	Schneebeli
Bolling	Hébert	Simon
Burke, Fla.	Hillis	Stuckey
Burton, John	Hinshaw	Symington
Carr	Howard	Teague
Collins, Ill.	Jarman	Thompson
Conyers	Jenrette	Udall
Coughlin	Karth	Ullman
Daniels, N.J.	Macdonald	Vander Jagt
Dickinson	Mathis	Vanik
Diggs	Metcalfe	Waxman
Emery	Moss	Wilson, C. H.
Esch	Ottinger	Wirth
Eshleman	Rees	Young, Alaska
Fish	Riegle	

The Clerk announced the following pairs:

Mr. Annunzio with Mr. Andrews of North Carolina.

Mr. Hébert with Mr. John L. Burton.

Mr. Addabbo with Mr. Carr.

Mrs. Collins of Illinois with Mr. Foley.

Mr. Diggs with Mr. Fraser.

Mr. Biaggi with Mr. Coughlin.

Mr. Thompson with Mr. Bell.

Mr. Adams with Mr. Dickinson.

Mr. Conyers with Mr. Green.

Mr. Dominick V. Daniels with Mr. Burke of Florida.

Mr. Teague with Mr. Emery.

Mr. Fish with Mr. Esch.

Mr. Eshleman with Mr. Ford of Michigan.

Mr. Howard with Mr. Guyer.

Mr. Jenrette with Mr. Hillis.

Mr. Karth with Mr. Hinshaw.

Mr. Macdonald of Massachusetts with Mr. Jarman.

Mr. Mathis with Mr. Metcalfe.

Mr. Rees with Mr. Ottinger.

Mr. Moss with Mr. Riegle.

Mr. Risenhoover with Mr. Schneebeli.

Mr. St Germain with Mr. Russo.

Mr. Sarbanes with Mr. Simon.
Mr. Roberts with Mr. Stuckey.
Mr. Symington with Mr. Udall.
Mr. Charles H. Wilson of California with Mr. Vander Jagt.
Mr. Waxman with Mr. Wirth.
Mr. Ullman with Mr. Vanik.

Messrs. PATTISON of New York, LATTA, QUILLEN, BENNETT, and CARTER, Ms. SCHROEDER and Mr. BONKER changed their vote from "nay" to "yea."

Mrs. SMITH of Nebraska, Messrs. YOUNG of Texas, COCHRAN, SIKES, STEELMAN, WAGGONNER, JONES of Tennessee, DON H. CLAUSEN, PEPPER, and TAYLOR of North Carolina changed their votes from "yea" to "nay."

So the motion to recommit was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 5541, SMALL BUSINESS EMERGENCY RELIEF ACT

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent for the immediate consideration of the conference report on the bill (H.R. 5541) to provide for emergency relief for small business concerns in connection with fixed-price Government contracts, and that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The Clerk read the statement.

(For conference report and statement see proceedings of the House of December 12, 1975.)

Mr. SMITH of Iowa (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. SMITH of Iowa. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this matter is noncontroversial and it should not take very long. The bill passed the House on April 22, 1975, by a vote of 402 to zero.

Mr. Speaker, the bill before us permits the Government, when it is deemed to be for the convenience of the Government and in the interest of the Government, to modify or cancel certain small business contracts which were entered into between August 15, 1971, and October 31, 1974. Members will recall that the period involved was one of very unstable prices and periodic shortages and that during this period our Government had an off-again on-again price control policy which very seriously disrupted the supply and price of various products. Also an oil embargo caused unpredictable delays in the delivery of some products. It is now believed that prices have stabilized enough since then so that such special relief should be cut off as of that date.

During this period numerous small businessmen entered into fixed-price contracts. They depended upon price controls in some instances but they have since been lifted. Also, the energy shortage which has developed, caused both huge price increases and a shortage or delay in delivery of some products. As a result some of these small businessmen will simply go broke and be unable to perform the contract anyway. In these cases the Government will face further delays and hinderances of obtaining the products it needs and letting a new contract will cost a lot more for the products. In some of these cases it not only is bad for the small businessman to be forced to the wall but also it is not in the interest of the Government.

It is general knowledge that big business contracts are almost all renegotiated in some form or another. In big contracts the Government generally changes the specification or through some mechanism they are reopened. The small businessmen in these small fixed-price contracts have not been able to secure the same kind of relief. The only exception is where a Government agency can certify that a contract is essential to the national defense and very few of these small contracts involve a product which is essential to the national defense and which cannot be obtained from another source.

At the beginning of this Congress several Members introduced similar legislation. The Small Business Committee readily held hearings and determined that a combination of various bills which had been introduced would be preferable. Therefore, this clean bill was introduced and it combines the essential parts of bills earlier introduced by several other Members. The bill was supported by the Small Business Administration and numerous small businessmen and small business associations. Although the GAO did not testify, they have informed us of their support for this type relief and the bill received overwhelming bipartisan support from the committee.

The conference report is substantially the same as the House bill. The major change is that the House bill would have authorized the head of any executive agency to terminate for the convenience of the Government "or make appropriate modification in the terms of" any fixed-price contract if certain specified conditions are found to exist.

The Senate amendment only authorized termination.

The Senate conferees were adamant on this point and would not allow any modification if the contract had already been performed or if the contractor had defaulted.

The conference substitute adopts the House modification authority, but limits its application to contracts which have not been fully performed or terminated and the amount of the modification plus the original contract amount may not exceed the expense incurred by the Government in reprocuring the item from another source.

The conferees intend that the authority to modify a contract be used only to save the Government money. Such a savings would result by limiting the amount of the modification plus the original contract amount to a figure not to exceed the cost of terminating the contract for the convenience of the Government plus the cost of reprocurement.

There were four other differences between the House and Senate versions.

First, the Senate amendment would authorize relief to small businesses which "have suffered or can be expected to suffer" serious financial loss because of the energy crisis or rapid and unexpected escalation of contract costs.

This type of a requirement expresses our intent as to the situations in which relief should be granted and was accepted by the House conferees.

Second, the House bill would have defined a small business concern as having the same meaning as such term is given under section 3 of the Small Business Act.

The Senate amendment would have included the language of the Small Business Act in the bill rather than refer to it.

The conferees adopt the Senate's use of the statutory language except that we deleted the reference to loan standards and instead tied the definition directly to procurement size standards. Thus the conference substitute defines a small business concern as any concern which falls under the size limitations of the small business Administrator's definitions of small business for Government procurement.

Third, the House bill would limit the application of the provisions authorizing modification or termination to contracts entered into during the period from August 15, 1971, through October 31, 1974. The House bill would also provide that the authority of the Agency to grant relief expires December 31, 1976.

The Senate amendment would have cut off the date of the contracts to those entered through April 30, 1974, and provide that the authority of the Agency to grant relief expires December 31, 1975.

The conference substitute adopts the House provision applying the authority to contracts entered through October 31, 1974, but terminates the authority of the Agency to grant relief on September 30, 1976.

Fourth, the House bill would provide that if a small business concern in the performance of a fixed-price Government contract experiences shortages of energy or energy products which result in a delay in the performance of the contract, the delay may be deemed to be an excusable delay.

The Senate amendment contained no comparable provision.

The Conference substitute adopts the House provisions except that in the event of such a delay, the head of the agency is specifically directed to modify the contract by extending the contract delivery date or period of performance.

The bill was introduced by myself and cosponsored by Mr. BERGLAND, Mr. CORMAN, Mr. YATRON, Mr. BRECKINRIDGE, Mr. J. WILLIAM STANTON, Mrs. FENWICK, Mr. CONTE, Mr. FISH, Mr. ROE, Mr. O'BRIEN, and Mr. FLOOD. However, I would like to express my appreciation for the fine work and excellent cooperation we have received from those Members who originally brought this problem to our attention; namely, Mr. CORMAN, Mr. FISH, Mr. ROE, Mr. O'BRIEN, and Mr. FLOOD.

Mr. Speaker, the principal provisions of this legislation were passed by the House on April 22 by a vote of 402 yeas and nays. This bill will provide benefits for both the small businessman and the Government. I stress that many of these contracts are still in existence. Some of them are reaching a crucial stage where products are to be delivered in the near future and that the relief authorized in this legislation with regard to contracts entered into during the particular 3-year period involved is very badly needed.

I urge adoption of the conference report on H.R. 5541.

Mr. J. WILLIAM STANTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I concur with the gentleman from Iowa. There is really no objection to this bill.

The SPEAKER. Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER. The question is on the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

WIRETAPPING AND FEDERAL SURVEILLANCE COMMISSIONS

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the Senate bill (S. 2757) to extend until April 30, 1976, the authority of the National Commission for the Review of Federal and State Laws Relating to Wiretapping and Electronic Surveillance, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

Mr. BUTLER. Mr. Speaker, reserving the right to object, may I ask, has the gentleman cleared this legislation with the appropriate members of the legislative committee?

Mr. KASTENMEIER. Mr. Speaker, if the gentleman will yield on the reservation, I would say I have consulted with the gentleman and also the gentleman from Illinois (Mr. RAILSBACK), a member of the committee.

Mr. BUTLER. Mr. Speaker, further reserving the right to object, will the gentleman explain the legislation?

Mr. KASTENMEIER. Yes, of course. The legislation merely extends the life of the Wiretap Commission 90 days from January 31, 1976, to April 30, 1976, in order that it may complete its final report. It does not call for any additional money or anything whatsoever, other than a simple extension.

Mr. BUTLER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2757

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 804(h) of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 197; 18 U.S.C. 2510 note), is further amended by striking out "January 31, 1976" and inserting in lieu thereof "April 30, 1976".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I ask for this opportunity to proceed for 1 minute for the purpose of inquiring of the distinguished majority whip as to what the program will be for tomorrow, as best the gentleman can give it.

Mr. McFALL. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the distinguished majority whip.

Mr. McFALL. Mr. Speaker, I will be glad to announce the schedule for tomorrow. We are adding several suspensions to tomorrow's schedule. That is why I am announcing them at this time. The scheduled program is as follows:

The first bill to be considered will be H.R. 12, Executive Protective Service, consideration of veto passage, which is already programed for tomorrow.

We will then consider H.R. 5559, the Tax Reduction Act extension, and move to go to conference. We expect this bill from the Senate, so that the gentleman from Oregon (Mr. ULLMAN) and the Committee on Ways and Means can go to conference.

Then we will take up the Private Calendar with the following suspensions, and votes on suspensions will be postponed until the end of all suspensions:

1. S. 2672 State Taxation of Depositories Act Extension;
2. H.R. 6644 Alaska Native Claims Settlements Act Amendments;
3. H.R. 4016 Claims by the Sac and Fox Indians;
4. H.R. 5090 Claims by the Cowlitz Indians;
5. H.R. 11172 Federal Maritime Commissioner Compensation;
6. H.R. 8169 Office of Management and Budget Director Compensation; and
7. S. 848 Flood Insurance Temporary Extension.

Then, the following bills: H.R. 8529, rice production, conclude consideration; H.R. 6461, public broadcasting, conference report; H.R. 10979, railroad revitalization and regulatory reform, with an open rule and 2 hours of debate; and H. 8235, Federal-Aid Highway Act, with an open rule and 3 hours of debate.

Mr. MICHEL. I thank the acting majority leader.

The SPEAKER. Would the acting majority leader mention that these bills might not be called up in the order as announced?

Mr. McFALL. As the Speaker says, these may not be called up quite in the order in which they are announced, because we are negotiating with some of the Members as to how they should be brought up.

The most important bill, of course, is the Railroad Revitalization and Regulatory Reform Act which, as the gentleman from Illinois knows, must be passed and sent to the President because he has stated that he would call us back if we did not get this finished. Hopefully, we will be able to get some of the amendments that are to be offered in order so that we can bring this up early in the day.

Mr. MICHEL. Mr. Speaker, recognizing that the gentleman from Kansas (Mr. SKUBITZ) had several amendments, is it the intention to go beyond general debate on that railroad bill tomorrow?

Mr. McFALL. Hopefully, we could do that.

Mr. MICHEL. That would be the last one scheduled for tomorrow?

Mr. McFALL. Perhaps, if the gentleman from Kansas can get his amendments in order so that we could proceed later in the day, that would be the ideal situation. I hope we will be able to do that.

Mr. MICHEL. I thank the gentleman.

CONFIRMATION HEARINGS ON GEORGE BUSH AS DIRECTOR OF CIA

(Mr. STEIGER of Wisconsin asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. STEIGER of Wisconsin. Mr. Speaker, in the Armed Services Committee in the other body this morning they began their hearings on the confirmation of our former colleague, Ambassador George Bush, to be Director of the Central Intelligence Agency.

Since this nomination to be Director of that agency is one that has much sensitivity related to it and since there is a matter of some controversy, I want to make sure that Members of this House have the opportunity to read in full what I consider to be an extraordinarily open and candid statement by Ambassador Bush at that confirmation hearing, and I will, as part of my remarks, include the full statement.

The statement is as follows:

Mr. Chairman and members of the committee: I am pleased to be back in the United States. I am still on Peking standard time; so if I seem a little tired I hope you will forgive me.

My nomination was sent to this committee sometime ago, but I was unable to leave China prior to the President's visit.

The President left Peking December 5th and we left December 7th.

I recognize that I am being nominated as director of the CIA at a very complicated time in the history of this agency and indeed in the history of our country. In fact, having been in China for a year, I didn't fully realize the depth of the emotions surrounding the CIA controversy.

Be that as it may I have a few fundamental views that I would like to set out in the brief statement.

First, my views on intelligence. I believe in a strong intelligence capability for the

USA. My more than three years in two vital foreign affairs posts, plus my attending cabinet meetings for four years, plus my four years in Congress, make me totally convinced that we must see our intelligence capability strengthened. We must not see the CIA dismantled.

Reporting and investigative work by the Senate and the House have brought to light some abuses that have taken place over a long period of time. Clearly things were done that were outrageous and morally offensive. These must not be repeated and I will take every step possible to see that they are not.

I understand that Director Colby has already issued directives that implement some of the decisions of the Rockefeller Commission—decisions designed to safeguard against abuses. If confirmed, I will do all in my power to keep informed, to demand the highest ethical standards from those with whom I work and particularly to see that this agency stays in foreign, I repeat foreign, intelligence business.

I am told that morale at the CIA and indeed in other parts of the intelligence community is low. This must change and I'll do my best to help change it. Some people today are driven to wantonly disclose sensitive information—not to the proper oversight authorities of the Congress but to friends and foe alike around the world. In many instances this type of disclosure can wipe out effective operations, can endanger the lives of patriotic Americans and can cause enormous damage to our own security.

I view the job of Director of Central Intelligence not as a maker of foreign policy; but as one who should forcefully and objectively present to the President and to the National Security Council the findings and views of the intelligence community.

It is essential that the recommendations be without political tilt.

It is essential that strongly held differences within the intelligence community be presented.

It is essential that without regard to existing policy or future policy, the intelligence estimates be presented—cold, hard, truthful.

I am convinced that I have the proper access to the President that was strongly emphasized in the recent Robert D. Murphy Commission Report.

I hope you find I have the proper integrity and character to see the job will faithfully be done.

Further I see the running of the CIA as very important, but I see the responsibility for coordinating all of our foreign intelligence activities as even more important. The CIA has a fundamental input into intelligence estimates, but so must the other agencies.

I will be fair to all, but I will do my level best to eliminate unnecessary duplication of effort and minimize interagency bureaucratic disputes. It won't be easy, I am told, but I will try hard on this.

Second, my personal qualifications:

I am familiar with the charges that I am too political for this job. Here is my side:

Yes, I have been in politics. I served four years in Congress. I served 2 years as Chairman of my party. I have no apology for either service, indeed I am proud to have served.

Some of the difficulties the CIA has encountered might have been avoided if more political judgment had been brought to bear. I am not talking about narrow political partisanship, I am talking about the respect for the people and their sensitivies that most politicians understand.

I do not view political experience as a detriment. I view it as an asset; but I also recognize the need to leave politics behind the minute I take on the new job if confirmed.

I would like to add:

If confirmed I will take no part, directly or indirectly, in any partisan political activity of any kind.

I will not attend any political meetings.

I will give no political speeches nor make any political contributions.

My ability to shut politics off when serving in non partisan jobs has been demonstrated in two high and sensitive foreign affairs posts—as the committee can verify.

For two years I was Ambassador at the United Nations, and for a little over a year I served in China as Chief of the U.S. Liaison Office. Both jobs taught me a lot about the product of our intelligence community—both taught me the fundamental importance of retaining an intelligence community second to none.

Frankly, many of our friends around the world and some who are not so friendly are wondering what we are doing to ourselves as a nation as they see the attacks on the CIA. Some must wonder if they can depend on us to protect them if they cooperate with us on important intelligence projects.

I think many admire our ability to cleanse ourselves and admit mistakes; but in something as sensitive as intelligence they frankly hope we don't go so far that we will kill off an important asset that they themselves and the free world need for their own security.

In addition to my foreign affairs assignments I attended Cabinet meetings from 1971–1974. Those four years gave me a good insight into some of the foreign policy considerations facing our country.

I think this foreign affairs background will be extremely useful in my new job.

I also feel the administrative experience I had in starting and running a business enterprise, which prospered, will be helpful.

Lastly, I will address myself to a question that is on the minds of some members of this committee. Namely, the question of my having been considered in the past for the Vice Presidency.

When Secretary Rumsfeld was before this committee not so long ago, his name having been speculated on for Vice President, he said "it is presumptuous of me to stand up and take myself out of consideration for something I am not in consideration for".

The committee accepted this answer then and I offer it now.

Let me add just one thing more:

If some individual or group comes forward promoting me for Vice President when I am Director of CIA I will instruct them to cease such activity.

But there is one other question, namely: "even if you have not lifted a finger to seek the nomination and even if you have actively discouraged others from advocating you for office, and the nomination is then offered to you—will you then accept?

I cannot in all honesty tell you that I would not accept.

I don't think any American should be asked to say he would not accept.

To my knowledge none in the history of this Republic has ever been asked to renounce his political birthright as the price of confirmation for any office.

I can tell you that I will not seek any office while I hold the job as CIA Director. I will put politics totally out of my sphere of activities.

In this new job I serve at the pleasure of the President. I plan to stay as long as he wants me there.

Some of my friends have asked me "Why do you accept this job with all its controversy and with its obvious barriers to political future?" My answer is simple.

First, the work is desperately important to the survival of this country and to the survival of freedom around the world.

Second, old-fashioned as it may sound, it is my duty to serve my country. I did not seek this job, but I want to do it and I will do my very best.

Mr. FREY. Mr. Speaker, will the gentleman yield?

Mr. STEIGER of Wisconsin. I yield to the gentleman from Florida.

Mr. FREY. Mr. Speaker, I want to add my statement to that of the gentleman from Wisconsin.

Our former colleague from Texas, Ambassador Bush, has done an outstanding job at whatever he has done and I certainly hope the confirmation hearings will go the way we all want them to go.

Mr. STEIGER of Wisconsin. I thank the gentleman from Florida for his remarks. I agree with him completely.

THE STRATEGIC IMPLICATIONS FOR THE UNITED STATES OF CHANGING ALLIANCES IN ASIA

The SPEAKER pro tempore (Mr. McFALL). Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 60 minutes.

Mr. KEMP. Mr. Speaker, the status quo in Asia has depended in recent years on a vague United States-Soviet-Chinese balance of power, thought to be sufficient to prevent the dominance of any one of the three. But, the fall of Vietnam and Cambodia—a fall carried out with substantial Soviet and Chinese assistance—was a rude awakening to many that the United States never really understood Asian political forces, oriental perceptions of power, or oriental patience in realizing long-term objectives.

The game of diplomacy in Asia has always been a delicate one—one where players have been judged as much for their playing skill—their comprehension and uses of strategy—as for the substance of their actual wins and losses. This is of crucial importance in the diplomatic arena in Asia, for if one was a good player, there was always the outside chance that a different or unusual move might be construed by the other parties as the result of a deliberate but so far incomprehensible strategy.

Because of its erratic foreign policy in recent years, however, the United States has, unfortunately, become increasingly identified as a rather amateurish player in Asian power politics, forcing the Asian nations to believe a bold move by a power could very possibly win the game.

In recent months, the U.S. insistence on continuing to pursue détente with the Soviet Union has disturbed leaders in the People's Republic of China. Peking sees Soviet intentions through détente as a gradual increase in Soviet "hegemony" in Asia, aimed at undermining China's power and ultimately gaining complete control over all of Asia.

Peking cannot understand, therefore, why the United States persists in its present policies toward the Soviet Union. Peking considers them a direct affront toward Sino-American relations. For example, Secretary Kissinger's October visit with Chairman Mao Tse-tung was filled with strong attacks on the Secretary of State for recent U.S. relations with Moscow. And during President Ford's visit this month, Vice Premier H'siao-ping—in what appeared to be an obvious reference to the Soviet Union—

charged that "it is the country which most vehemently preaches peace that is the most dangerous source of war."

ASIAN VIEWS OF AMERICAN FOREIGN POLICY

When many in the United States were celebrating as a victory for U.S. foreign policy the Nixon-Peking summit of 1972, many of the nations of Asia saw it as a visit of accommodation at the very time when the likelihood of U.S. success in Southeast Asia was rapidly diminishing. As seen by these nations, the long breach in Sino-American relations ended only at Peking's initiative and entailed a visit to Peking by the American President to finalize the arrangements. This perception was reinforced by the pattern which emerged, that although other Communist leaders returned Presidential visits, no Chinese officials of any stature have done so.

What are most Asian leaders looking at today? First, they are looking at the measurable signs of America's military stature. Second, the Secretary of State's recent indication that he had no objections to the United States entering into a normalization of relations with the country that defeated the United States in Indochina only 8 months ago. Third, the substance the most recent trip to Peking.

Foreign perception of America's détente policy also sees the United States apparently scrambling to make perhaps not fully mutual agreements with the two major Communist nations in the world. And, while other countries have been concentrating on building up their defense postures in the face of known military buildups in both the Soviet Union and China, the United States appears to them to be making an effort to reduce further its own defense commitments.

The immediate results of America's recent foreign policy have been a disturbing buildup of Communist military posture in relation to the United States around the world, as well as reassessments by other nations of our foreign policy. For example, the Soviet Union has felt free to pour over $100 million into the Portuguese Communist Party's revolution there. Israel's reluctance to believe the American pledge of providing technicians in the Sinai neutral zone, until actually approved by the Congress, further reveals the declining influence of our executive branch, and the increasing importance of the Congress, to foreign eyes. Marilyn Berger of the Washington Post reported from the Middle East:

> The imminent fall of Cambodia and even South Vietnam . . . are said to be raising new obstacles in the current negotiations.
>
> Israelis are questioning the value of assurances . . . Arabs are said to be questioning the need to make concessions when American aid to Israel might soon be diminished, just as it has been in Cambodia and South Vietnam.

And, the OPEC countries have repeatedly raised the international price of oil despite angry U.S. protestations. Indeed, the Shah of Iran has said that he would raise the price of oil again, if it would serve to "shake up" the United States. "You Americans are not serious people," he has warned.

Our latest American foreign policy has had a devastating effect on our ability to keep alliance together abroad. American guarantees of protection are simply no longer regarded by other nations as sufficient safeguards against aggression and the countries with whom we have had friendly relations for many years are turning to the Communist superpowers in a last ditch effort to protect themselves through whatever means possible. This is not conjecture.

VIETNAM

This new American policy began to gel toward the end of the Vietnam war.

In 1972 the United States still wielded a sizable amount of power with the two other superpowers. The fact that the intensive bombing of Hanoi and Haiphong in the spring of 1972 did not lead to a Soviet postponement of the United States-U.S.S.R. summit meeting provided some grounds for the theory that the Soviet Union placed higher priority on détente with the United States than on furthering the interests of a minor Asian ally. In 1973 America's power was sufficient to enable us to obtain a commitment from both the Soviet Union and Peking to agree to a nonintervention pact concerning Cambodia.

But with heightened emphasis being placed on Sino-Soviet-American détente, the naturalization of communism as an objective of free world diplomacy began to crumble, principally because it had been apparently abandoned.

Several years ago, the Southeast Asian Treaty Organization—SEATO—reinforced its collective defense commitment, reasserting its policies of defending member countries against Communist aggression and of containing mainland China. In contrast, SEATO recently dissolved its military planning office, and last September 24, after suffering the insurmountable setback with the fall of Indochina, quitely voted to disband itself entirely.

In hindsight, the year 1973 marked a substantial turnaround in U.S. strength in Asia. On August 15, 1973, the United States ceased all bombing in Cambodia in accordance with two bills passed by Congress which prohibited funds for U.S. combat activities in Indochina. The effects of this action were, however, quite the opposite from what Congress had intended.

As a result of the congressional prohibition against any U.S. invlovement in Indochina, the delicate balance of superpower influence in Southeast Asia was severely upset. The Soviet Union was thrown into the position of taking a harder line with Hanoi than it had planned. China, too, was put in the position of having to interfere more directly in domestic Vietnamese affairs, in order to counter the growing Soviet-Asian influence.

Then, the resignation of President Nixon 1 year later added an additional element of instability to U.S. international relations. Most foreign policy analysts agree that, whatever President Nixon was to the American people, he was considered a statesman of enormous stature by the major powers of the world. More than anything else, President Nixon's resignation signaled to the outside world a probable U.S. reduction of involvement in foreign policy concerns.

With that departure, South Vietnam soon unraveled, and two broader things became apparent. First, the new President was not as well known in foreign circles, as former President Nixon had been. Second, for the time being foreign policy would be more heavily influenced by the Secretary of State. Previous U.S. guarantees of assistance were now made tenuous by a President chiefly concerned with establishing good relations with a less than sympathetic Congress.

The collapse of Vietnam, as it occurred, should not have been such a surprise in the United States in light of the existing political situation. We had shown the world by our words and actions that we no longer had a sufficient interest in prolonging a "winless war," and the congressional prohibitions and restrictions stand out, in hindsight, as the most obvious indications of that.

Strategists in Hanoi had not insisted upon winning in 1975. They knew they could wait. Basic Communist tactics had called for a slow but steady "salami strategy," every year working to gain one more slice of the "salami." The 1975 offensive had only intended to take the mountain highlands. It was a strong offensive, but not sizably stronger than any of its previous yearly advances.

Since Peking had for some time quietly supported a victory by guerilla forces indigenous to the South, rather than the heavily Soviet influenced North Vietnamese Government, China had therefore not contributed significantly to Hanoi's southern campaign.

With the sudden retreat of U.S. money and military support, however, China could not resist the opportunity for a military victory for the Communist North, and joined with the Soviet Union in supporting more fully the surprise, greatly accelerated advance from the North.

But while the North was continuing to receive outside Communist help, the South Vietnamese faced a war for the first time without the assurance of U.S. military and economic aid. And North Vietnamese plans for a "salami strategy" victory were upset, not by an enemy advance—but rather by an enemy retreat.

With no prospect of continued American aid, specifically ammunition, gasoline, and spare parts, General Thieu realized that it would only be a matter of time until an extended Southern army would be totally helpless. In an effort to cut his losses, he ordered a retreat to the more easily defendable areas of the South.

The result of his sudden action was a massive confusion within the South Vietnamese Army. For one thing, the soldiers in the Southern army had a very high morale. They had fought long and hard for the territory they now controlled.

The sudden word to retreat was intensely infuriating and demoralizing for

these troops. Any advance warning had been prevented by the fact that Thieu's entire army and intelligence system had been thoroughly infiltrated by enemy North Vietnamese. In the ensuing panic and inexperienced retreat maneuvers, troops began to leave their units to try to get their families out of the way of the oncoming Vietcong. Some, realizing that the American supply line had been cut for good, decided that the end of the war had come for all intents and purposes, and left the army.

At the same time, a rumor spread through the South that President Thieu had made a deal with Hanoi to give central Vietnam to the North in exchange for the freedom of Saigon. Thousands of South Vietnamese soldiers, knowing that it would only be a matter of time until they could no longer hold out against the North, fled to Saigon, leaving their families behind in the belief that they would also have enough time to reach Saigon and safety. Not until Saigon was in the hands of the enemy did anyone in the South discover the untruth of the rumor.

Tragically, while everyone in South Vietnam knew why soldiers were fleeing en masse to the capital, it was never reported to the United States by any of the numerous American news agencies and reporters in Saigon. The misunderstanding this caused Congress and the American people only served to stiffen Congress' resolve against further economic aid to the South.

The ultimate irony of the fall of Vietnam is that intelligence sources say that, in 1 more year, North Vietnam would have listened to the Soviet Union and Chinese admonitions to ease her aggression against the South. The Soviet Union felt that the Southeast Asian nation was draining too much of its resources with little hope of a decisive communist victory in sight. And, China, on the other hand, involved as it was in building up her newly acquired stature as the third world superpower, could not afford to let North Vietnam jeopardize her carefully designed international position.

REACTION OF THE SUPERPOWERS

The fall of Vietnam was a major setback for U.S. international posture. It was the final signal for the countries of Asia to begin a rapid reevaluation of their relationships with the three superpowers and with each other. The issue at stake was not so much that of a U.S. withdrawal from three Southeast Asian countries—South Vietnam, Cambodia, and Laos—for most nations conceded that the United States gave more than enough to Vietnam, both in manpower and in money. The critical issue was that under pressure the United States backed out from a longstanding and formerly irreversible commitment.

The immediate effect of this new perception of American weakness was a reevaluation of the U.S. military posture by the two communist superpowers.

A newcomer among the superpowers, China had maintained a consistent foreign policy before the fall of Vietnam, sporting a fierce hatred of both the United States and in recent years of the Soviet Union. Many Asian analysts feel China pursued détente with the United States more as a "doomsday technique" than anything else. China was hoping to prevent any assertion of power by the United States in Asia in general and with respect to mainland China in particular until the time when China expected to have a nuclear capability large enough to defend herself against any attack. As it is, China today has a second-strike capability able to reach any major city on the Russian mainland. Always deathly afraid of Soviet hegemony China's relations with the Soviet Union deteriorated steadily in the 1960's, encouraged by a Soviet refusal to support China's attack on India in 1962, Sino-Soviet rivalry in North Vietnam and the Tonkin Gulf incident—when China accused Moscow of collusion with the United States against Vietnam, and the Chinese cultural revolution of the late '60's—which added new tension to the situation as China stressed Peking's "ideological purity" and rejected the Moscovite "revisionists."

The change that has come over the People's Republic of China in recent months is the result of her perception of the world political balance today, as compared to several years ago. Then, the United States and the U.S.S.R. were both seen by Peking as coequal threats to Chinese independence. Today the United States is not perceived as a threat; rather, it is perceived by China as little more than a paper tiger. This is much to the consternation of Peking too, for China sees the United States as the only deterrent to Soviet hegemony in South and Northeast Asia and is extremely worried that a U.S. withdrawal from the Asian sphere will leave a power vacuum that the Soviet Union will be only too eager to fill and capable of filling. As a result, Peking in recent months has sharpened her attack on the Soviet Union while using diplomatic means to encourage the U.S. continued participation in far eastern affairs. And the recent firing of Defense Secretary James Schlesinger—seen by Peking as a move to establish stronger ties with the Soviet Union through increased détente on defense issues—drew criticism from Chinese leaders.

Not surprisingly, the Soviet Union has formed an equally poor opinion of the U.S.'s defense posture. With frightening regularity, the U.S.S.R. has systematically stepped up its efforts in Southeast Asia in support of Communist insurgencies there, confident that America will do nothing to stand in her way.

CHANGING PATTERNS IN RELATIONS WITH JAPAN

International perception of U.S. military indecisiveness has caused the nations of South and Northeast Asia to rapidly redefine their postures with regard to the new American world position. Japan, once the staunch ally of the United States, was one of the first countries to do so after the Vietnam war. On May 2, 1975, the New York Times reported the immediate effects of the fall of Vietnam on Japan:

In Tokyo, a Foreign Ministry official observed that the United States was plainly overextended in its commitments in Asia.

"Japan, too, must rectify her position of having relied excessively on the United States," he said.

Echoing President Ford, Foreign Minister Kiichi Miyazawa said yesterday:

"A chapter in Japan's Asian policy has been closed as a result of the American setback in Indochina."

He said the reassessment would not be hasty, and Government sources indicated that Tokyo would be seeking reassurance on the American security guarantee even as it groped for a more independent posture in Southeast Asia.

At the same time, however, Japan's leading newspaper was calling the Communist takeover of South Vietnam an "emancipation," and a "rise of nationalism," quoting a study that showed that over one-third of the Japanese population thought that a united Vietnam would be the best solution for peace in that country. Tokyo businesses are urging that country to establish diplomatic ties with Hanoi so that Japanese industry can get an early chance at the lush, virtually untapped resources of the two Vietnams.

Japanese Prime Minister Takeo Miki, realizing that both China and the Soviet Union still pose a distinct threat to his country, now finds himself caught between the two Communist superpowers, each vying for a first-place relationship with the industrial island. Because of the United States strong ties with Japan before the Shanghai agreement, and because of America's conscientious efforts to alleviate Japanese anger after not having been consulted in advance of United States-China détente, Japan should remain a firm ally of the United States in spite of other superpower pressure.

Yet Tokyo was one of the first countries in Southeast Asia to recognize the People's Republic of China and has become China's chief trading power—of all Communist and non-Communist nations. Commerce between the two nations rose to $3,293,000,000 in 1974. It would be very hard for Japan now to reduce the level of her involvement with her powerful neighbor, and Peking's influence grows on the Japanese islands almost daily.

ASIAN ALLIANCE

Since the mid-1960's five Southeast Asian countries—Thailand, the Philippines, Indonesia, Malaysia, and Singapore—have alined themselves within the Association of Southeast Asian Nations—ASEAN—in a loose economic alliance. In the eyes of the ASEAN nations, SEATO was not only ineffective as a multilateral defense arrangement, but, in fact, militarily provocative. The ASEAN alliance felt that those states adhering to SEATO became targets for insurgent subversion both to weaken the American position in Southeast Asia and to demonstrate the treaty's ineffectiveness.

ASEAN was created out of the concern that one of the major world powers would some day attempt to assert its authority over the region. Whereas before ASEAN the Asian States were divided by "competitive alliances" with one or more of the major powers, ASEAN has attempted to create among the participating countries a sense of regional unity and self-containment.

Although not as powerful an alliance

as NATO or the Warsaw Pact, ASEAN's main responsibility at present is promoting a policy of neutralism in Southeast Asia through which all nations involved will eventually attempt to encourage the complete nonalinement of its members with any major outside powers. Propopents of neutralism within ASEAN contend that—since the superpowers will not let themselves be outclassed in Southeast Asia—a unilateral scaledown of foreign influence will be just as effective as a military buildup, and less expensive. This is the reason they oppose any permanent base establishment in the Indian Ocean by either Russia or the United States. An escalation by either side would not make the region any safer, it is felt, and would in fact increase the chances of international incident. Hopes for the elimination of foreign influence and alliance, however, are woefully unrealistic.

The extended land wars on the Indochina Peninsula have created a political situation not unlike that in Western Europe following the Second World War. Decades of military conflict have resulted in political boundaries wholly unrelated to the ethnic and religious makeup of the area, with the result that the conflicts there are particularly bitter and unyielding. The widespread character of these disputes has extended an irresistible invitation for Communist support and intervention by both Russian and Chinese Communist Parties.

Thailand, potentially a security link between mainland Asia and the rest of the ASEAN nations, is already feeling the influence of the Communist-led insurgencies on all of its borders. Whereas the conflict on its Burmese border is relatively nonaggressive, that on its southern flank is steadily gaining momentum. There, Bangkok's Communist Suppression Operation Command—CSOC—estimated that 2,000 Malaysian-led Communists are operating under the legendary leadership of Chin Peng, mastermind of the Communist revolt in Malaysia in the 1950's. It is reported that the goal of the Malaysian Communist insurgents is the ultimate control of Thailand's southernmost provinces, and there is little reason not to believe this.

At the same time, Thailand faces a major threat on its Laotian border in the north and northeast. Here, approximately 7,500 Communist terrorists in the two regions claim the support of an estimated 40,000 Vietnamese residents, lending credence to a 1974 U.S. intelligence report that North Vietnam has organized a complex logistical system to support rural revolt in Thailand—manned by North Vietnamese and Pathet Lao troops with the additional support of Cambodian forces. Analysts agree that there is Chinese support behind this insurgency.

In view of the increasing hostilities on all of its borders and the sudden collapse of U.S. influence in the area, Thailand—once along with the Philippines—America's staunchest military friend in Asia, has hastened to switch alliances in an effort to preserve some semblance of independence. On July 1, Bangkok formally established diplomatic relations with Peking, and soon after recognized Cambodia's Khmer Rouge Republic, opening a full working embassy there and establishing trade relations with the Cambodian Government. After taking office last March, Thai Prime Minister Kukrit Pramoj forbad the use of Thai bases for U.S. military operations in Indochina, objecting strenuously to the use of Thai facilities during the recapture of the *Mayaguez*.

Fearing that any further U.S. military presence in their country would only be provocative to the Vietnamese, Pramoj ordered the removal of all U.S. troops from Thai territory by March 1976, and while as of October the White House was confident that Thailand would not continue in its policy of closing down U.S. military bases; at present fewer than 7,000 men and 100 aircraft remain in Thailand, down from 48,000 troops and 750 aircraft at the height of the Vietnam war.

Similar activity has been going on in the other ASEAN member countries, which have also become politically unstable.

In the Philippines the extent of Communist-dictated insurgency has caused the imposition of martial law in Manila. It is a very tense situation, the outcome of which is quite tenuous at this time, and it is not at all certain that Philippines President Ferdinand Marcos is willing to renegotiate a treaty for continuation of U.S. bases in the Philippines except for the protection and defense of the Philippines. In an exclusive interview with Chicago Tribune reporter Ronald Yates, Marcos declared that—

> All American military bases in the Philippines should be converted into Philippine bases under Manila's control and administration.

Marcos also said that the Philippines would normalize relations with the Soviet Union early next year.

Marcos' statements have caused considerable concern to American military experts, primarily because of the extensive U.S. presence in the Philippines at Subic Bay and Clark Air Force Base. Subic Bay has a complete drydock naval facility, with a repair facility for ships second only to our Japanese base in the Western Pacific. Because of the much lower labor costs in the Philippines, compared to the United States, the United States had planned to double Subic's capacity—the Navy estimates that repairs costing $220 million in the United States would run only $32 million in Subic Bay.

But even more important is the Clark Air Force Base, 75 miles inland from Subic Bay. Clark Field contains a naval magazine capable of handling the entire fleet that once operated off the coast of Vietnam, a major communications station, and an air base that handles all Pacific military airlift logistics flights.

Strategically, the Philippines are crucial to the entire Western Pacific defense operations of the United States. Located in the center of 7th Fleet operations—which cover waters from Alaska to Australia off the Asian coast—the Philippines are second in location only to the now-lost U.S. naval base at Cam Ranh Bay. Should the United States eventually be asked to leave, the next closest U.S. territory would be located in Guam. At a normal cruising speed of 15 knots, that would mean that American ships would have to add 5 to 6 days more onto their round trip supply runs from their positions off the Asian coast, and that the Navy would have to add more supply ships to the 7th Fleet, at considerable cost. In addition, the 1,000-mile capability of U.S. supply planes means that the removal of the Philippines as an American base would necessarily require U.S. stopovers in potentially dangerous country for any strategic maneuvers undertaken in Southeast Asia.

Indonesia is presently embroiled in a dispute over Portuguese Timor, where Dili, the capital, is already held by Communist leftist forces. Indonesia is walking a delicate line between Chinese and American influence. While Jakarta is making overtures to Peking in order to obtain a less threatening attitude from her Chinese neighbor, President Suharto at the same time has obtained a double dose of foreign aid from the United States.

At this time, Indonesia is one of America's closest allies in Southeast Asia—a fact reflected in President Ford's stopover in the capital of Jakarta at the end of his Chinese trip, a visit designed to reassure Indonesia of the United States continued commitment to the protection of this small country's independence. Hopefully, Suharto will choose to remain under American influence in the coming years.

The situation in Malaysia is also particularly bad at this time. The Washington Post of November 5, 1975, reported a resurgence of a serious Communist guerrilla movement in the country since the fall of Cambodia and South Vietnam. A curfew is in effect in Malaysia's capital, Kuala Lumpur, where national monuments have been bombed and grenade attacks have been carried out against police headquarters. Since April, 50 soldiers and police have been killed in the violence and over 250 have been wounded. The source of unrest in Malaysia is the very active Malaysian Communist Party MCP. Twenty years ago the MCP was practically eliminated by the British counter-insurgency expert, Sir Robert Thompson, and others. Today, it is a strong party—funded and supplied by the Communist Party of China. Observers feel that this buildup of MCP forces is a sign that Kuala Lumpur is the first target of a new, revitalized Peking-dictated insurgency.

One of the major difficulties in putting down this insurrection is the fact that Chinese make up 32 percent of the Malaysian population and control most of its business and money sources. Malaysian Prime Minister Tun Abdul Razak is attempting through strict economic policy to reduce the influence of the Chinese population while building up a sufficient armed service. So far, though, he has been unable to curtail Communist activities—even after formally establishing diplomatic ties with Peking. Razak has asked Peking to halt Chinese broadcasts into the Malaysian capital urging resistance to the Malaysian Government, but his request has so far met a deaf ear

and a disavowal of control over the Chinese Communist Party's activities by the Chinese Government.

Malaysia sits across the Strait of Malacca from Singapore, the fifth of the ASEAN nations. Singapore is concerned about the control over the strait, if Malaysia should fall to the Chinese Communists and over its own fate as well.

Singapore is the third largest refining location in the world, the second largest shipbuilding center in the world, and the second largest oil rig building port in the world. All of this depends on the continued free access to the strait from the Indian Ocean to the South China Sea, thence to the Pacific. The strait presently sees a sea traffic of over 40,000 vessels per year—110 vessels per day—including approximately 8,000 tankers bound for Japan alone.

In November, 1971, Malaysia and Indonesia jointly claimed that the straits would be considered their national waters rather than an international waterway, claiming that the straits were part of the 12-mile zone bounding both their coasts. The United States—along with Japan and the Soviet Union—objected to that action, claiming that it impeded the "right of innocent passage" and that neither Malaysia nor Indonesia had the capacity to defend their claims anyway.

China, however, has consistently and forcefully argued for the 12-mile zone and for the establishment of a 200-mile coastal exploration limit. China's official position is that this would protect small littoral states from exploitation by other, more major powers.

In actual fact, China has two main purposes for supporting this course of action. First, adoption of this measure by international law organizations would enable Peking to disrupt and deter close-in operations of the ever-expanding Soviet Navy. But second, and most important in China's eyes, is the jurisdiction such a zone would provide Peking over the oil-rich East China and Yellow Seas. This is why Peking objected to the 1974 signing of a Japanese and South Korean agreement to begin mining the mineral-rich continental shelf off the South Korean coast, even though the People's Republic of China already claims undisputed jurisdiction over the 200-mile coastal zone off its eastern littoral.

INDOCHINA

One of the most potentially dangerous situations politically in Asia at the present time, however, is that of Indochina—of Vietnam, Cambodia, and Laos—now Communist-held for over 8 months.

The United States still maintains a 22 man American Embassy in the Laotian capital of Vientiane, but its activities have ground to a halt and its purpose is mainly to prevent further discouragement that an American withdrawal from that city would mean for our allies in Asia.

Laotian Communists have stepped up their attacks on Thailand, while it, too, holds out between an alliance either with China or the Soviet Union.

Pathet Lao leaders also lost no time last spring in approaching the United States for foreign assistance as soon as the coup was completed, stating that it was "America's duty to pay," even after having brazenly evicted U.S. Agency for International Development officers from Laotian soil.

On December 3 the pro-Communist Pathet Lao abolished the 600-year old Laotian monarchy as well as the 19-month old coalition government led by Prince Souvanna Phouma, largely in response to massive demonstrations believed to have been staged by the Pathet Lao itself. Although the government takeover is little more than a reaffirmation of the control the Pathet Laos has been exercising since 1962, the fact that another Communist government has risen to official status in Southeast Asia is the cause of concern to U.S. officials.

One of the bloodier scenes in Southeast Asia is now being shown to have taken place within the former U.S. ally—Cambodia. Stories of massacres are now reaching U.S. newspapers, and with them tales of Khmer Rouge barbarianism almost incomprehensible to Western minds. For a city that once held over 2,000,000 people, Phnom Penh, its capital, now contains only 50 thousand inhabitants, most of them Khmer Rouge soldiers. Khmer Rouge officials have ousted the U.S.S.R. because of her recognition of the old Lon Nol regime up until the collapse of Cambodia, and executed the former Premier's brother, Lon Non, in a massive execution of political prisoners after the capture of Phnom Penh last spring. While Cambodia has representatives from China, North and South Vietnam within its capital, it has maintained an impregnable wall between Cambodia and the outside world, only recently allowing trade with Thailand because of its dire need for food, fuel, and other supplies. The relationship between Phnom Penh and Hanoi is said to be gradually disintegrating and China, which has been providing food to the Cambodians on a limited basis for some months, hopes to gain more or less complete mentor status within the near future, especially since China would like to see a diplomatic counterweight to North Vietnam's growing power in Indochinese circles.

But one of the more controversial situations—to the American point of view—is that surrounding Vietnam itself. Soon after Vietnam fell it was reported that Secretary Kissinger was moving to encourage, and then establish ties with the North Vietnamese. The New York Times of November 19, reported:

> Last weekend . . . Secretary of State Kissinger let it be known through a group of Congressmen about to confer with North Vietnamese representatives in Paris that the United States was ready to respond to goodwill gestures from Hanoi, working towards a "normalization" of relations . . . (even though) Hanoi officials have regularly insisted that reconstruction aid, as envisaged in the 1973 Paris agreements, would have to be an integral element in any resumption of working relations.

Indeed, one high Government official has even speculated that the United States might not have blocked U.N. recognition of Vietnam if that country had not tried to obtain two seats for itself in the General Assembly—one for the North, and one for the South.

Hanoi has been inviting U.S. trade and economic aid ever since Saigon surrendered, saying the losers always pay reparations to the winners, while at the same time fostering bitter anti-American sentiment throughout the country.

At the same time, Hanoi has been working on cementing a closer relationship with the Soviet Union. Hanoi publicly joined Moscow in its enthusiastic praise of the dictatorial actions of India's Prime Minister Indira Gandhi this fall, and on October 28, North Vietnamese Communist officials pledged North Vietnam's "eternal and unbreakable ties" with Moscow, publicly thanking the Kremlin for helping North Vietnam win the war.

And since the fall of Vietnam, Moscow has poured money and equipment into the Hanoi government, slowly turning the country into the first full-fledged Soviet satellite nation in Southeast Asia, one the Soviets are intent upon having within their sphere, instead of within the Chinese sphere.

Largely because of her Soviet backing, Vietnam is now emerging as the major power among the small Southeast Asian nations. Within a month after the North Vietnamese overran the South, Foreign Minister Chatichai Choonhaven of Thailand said he was calling a meeting of the Southeast Asian alliance, which also includes Singapore, Indonesia and the Philippines, in hopes of arranging a joint recognition of the now Saigon government.

GROWING SOVIET INFLUENCE

It is a sad fact that, if the United States still exhibited the power and the strength of will it once had in international circles, the Southeast Asian nations would not have found it necessary to turn to one of the other two superpowers instead of, or in addition to, the United States. If we in America truly understand that fact, we should be very concerned.

The Soviet Union has wasted no time in capitalizing on our internationally perceived weakness. Détente to the Soviet Union, after all, fits into Soviet plans of: one, stabilizing its European front in order to be better able to deal with China; two, creating division within U.S. alliances; and three, seeking U.S. technology to help repair Moscow's ailing economy while leaving the Soviets relatively free to concentrate on military buildup.

The goals of the Soviet Union in Asia go far deeper than a single political alliance, however. While American troops were stationed in South Vietnam, the U.S. Government built the second largest manmade port facility in the history of the world—second only to that constructed in Normandy to sustain the Allied invasion of Europe in 1944—on the tropical east coast of South Vietnam at Cam Ranh Bay. Soviet military experts have been eyeing the all-weather facility which, according to a report in the Chicago Tribune of November 14, "would enable the Soviet fleet to blanket China, Japan, and U.S. bases in a crescent formation in case of hostilities." Presently,

Moscow's only permanent base on the Pacific is the one at Vladivostok. While it is a formidable base in the northwestern section of the Japan Sea, Vladivostok is, nonetheless, subject to the cold winter weather and must be kept open by icebreakers between November and March. It is, therefore, of limited use during that 5-month portion of the year. Soviet control over Cam Ranh Bay, however, would give the Soviet Union her first 12-month door to the Pacific in Soviet history.

So far Hanoi has denied formal use of Cam Ranh Bay to the Soviet Union, but intelligence information made public indicates that Soviet naval experts are already preparing the former U.S. naval base for Soviet nuclear submarines and missile cruisers.

There are other indications, too, that the Soviet Union is taking advantage of the U.S. strategic impotence to enlarge her military reconnaissance missions in Southeast Asia.

The November 14 Chicago Tribune featured an article by Ronald Yates entitled, "Politics of Power in Pacific—Soviet Buildup." In the article Yates reveals an unsettling discovery. Last April, when the eyes of the world were focused individually on events in Indochina, the over 300-ship Soviet Pacific Fleet—275 ships larger than the U.S. Pacific Fleet—launched what Yates called "the biggest naval exercise in Soviet history":

Russian ships, much to the consternation of Japanese defense officials, were concentrated all around Japan in a pattern designed to strangle this nation by cutting off all sea lanes. Soviet submarines, intelligence sources say, practiced preemptive strikes against American naval bases in the Philippines and Japan and deployed along the Chinese coast in a configuration designed to shower that nation with missiles.

Japan is, quite understandably, worried over this Soviet action. I quote further:

There is no doubt about it, the Soviet Union has become the new Pacific power, replacing the United States," a Japanese Defense Agency source said. "We can only guess at Soviet intentions."

In the same article Yates writes that the Soviets have begun to maneuver troops along the ever-sensitive Manchurian border in the north of China, where it is estimated that they now have the capacity to launch a 50-division attack on mainland China. Yates wrote:

And last month a Soviet reconnaissance plane pierced Japanese air space and flew undetected for some 20 minutes over Japan's northern island of Hokkaido—an event which painfully reminded the Japanese of their vulnerability to a Soviet attack.

The Soviet Union has at its immediate disposal in northeast Asia, some 850 bombers and 1,200 tactical fighters compared to about 200 U.S. planes based in Japan.

That the Soviet Union and China are engaged in a war of political influence in Asia following America's ebbing posture in the area is apparent by events in Indochina since communist victories there.

The two explanations offered for the Soviet Union's growing Asian military machine are equally distressing. Japan believes that the Soviets are expanding militarily in Asia as a means of neutralizing Japan in the event of a Pacific war. U.S. sources see the Soviet actions as a means of preparing for an eventual attack on the American west coast. Independent analysts concede that both theories lie well within the realm of possibility.

At present the Soviet Union has 105 submarines in its permanent Pacific fleet, about 40 of which are nuclear, and about 60 of which are major surface combat ships. Its Pacific air force has 5,350 combat aircraft with a troop force of 400,000. According to "The Military Balance—1975–76," Soviet tactical air forces include:

About 4,500 aircraft including Yak-28, Il-28; 700 Mig-17; 500 Su-7; 400 MiG-23 Flogger; more than 1,350 MiG-21; Su-17/20 Fitter C, Su-19 Fencer A; Yak-28 Brewer E and An-12 Cub electronic warfare aircraft.

In addition, the Soviets have a Pacific paramilitary force of 430,000, including 200,000 KGB border troops.

KOREA AND TAIWAN

Where U.S. international weakness has encouraged increased military buildups by both China and the Soviet Union, it has also failed to discourage active aggression among Asian nations as well.

North Korea, encouraged by the swiftness and ease of her colleague's—North Vietnam's—success seriously contemplated an all-out attack on South Korea for some weeks last spring before she was talked out of it by both the Soviet Union and China—Moscow, because the rapid destruction of the delicate Indo-Chinese balance had revealed broadly her carefully constructed cover of alleged noninvolvement with Communist activities in Southeast Asia, and China, because a continued U.S. presence in Korea would maintain the peacefulness of the Chinese and Korean border, while the withdrawal of U.S. forces would necessitate a closer concentration on the area and a distraction from Peking's main strategic concern on the Sino-Soviet border. Indeed, the situation in Korea is very dependent upon the influence the U.S. commands in Asia. Forty thousand U.S. troops notwithstanding, the Democratic People's Republican of Korea, President Kim Il Sung is recognized as a very unstable leader, one who has never abandoned his plans for the forced reunification of North and South Korea. His strategy is simple—to somehow provoke a 9-day war, long enough to capture the South's key strategic positions, and too short for the U.S. Congress to take appropriate retaliatory action.

South Korea is understandably perturbed by all this action by its northern neighbor, and along with Taiwan is extremely worried about the apparently declining role of the United States in Asia. While at least South Korea does not have to worry too much at the present time about continued U.S. support of the Park regime, Taiwan has been receiving signals that Secretary Kissinger may be willing to recognize the People's Republic of China's jurisdiction over the Taiwanese people and that it is only a matter of timing—for example, after the 1976 Presidential campaign is over. In fact, as the New York Times stated in a May 5 article:

The prospect that the collapse of the American-backed government in Saigon would provoke other Southeast Asian regimes to seek accommodations with Peking and Hanoi was taken, paradoxically, by some Taiwanese as an encouraging sign. The only way for Washington to deflect that trend, they contended, would be to reassert its old commitments in the region.

I, for one, do not believe that we need to further this course of expediency through diplomacy by abandoning one of our staunchest allies in return for "better relations" with a nation already more than anxious to pursue détente with the United States. On November 20 I joined with over 210 of my colleagues in the Congress in calling for an expression of the sense of the House that the United States be urged not to comply with this deplorable course of action against the freedom and independence of 16 million people on Taiwan who have asked nothing more than that the United States keep our commitments with them and let them stand on their own feet as a free world partner. I do not feel the United States should abruptly abandon its dialogs with the People's Republic of China. There are reasons why we should continue to play off mainland China against the Soviet Union, and continued communication is essential to that. But, I firmly believe that no moves to normalize our relations with the PRC should be undertaken that would jeopardize the Republic of China in any way.

Indeed, the People's Republic of China is watching the U.S. position on Taiwan very closely. While pushing for increased power over the Republic of China, Peking is also measuring the extent of America's mettle and resolve regarding one of our formerly staunchest commitments. Asian experts maintain that, should the United States concede victory to Peking on this very sensitive question, mainland China will treat U.S. international power with even more contempt than before.

COMPETING CLAIMS FOR OFFSHORE OIL AND GAS

Of equally major concern to international observers has been the recent actions by the People's Republic of China with regard to offshore oil in the Yellow Sea, East and South China Seas and Po-Hai Bay. Mainland China has claimed jurisdiction over a 200-mile "economic zone" in waters off the entire coast of China, including the waters surrounding Korea and Taiwan and their adjoining islands, a claim which the PRC has made in accordance with her policy of regarding all these islands as part of her territory. Although the People's Republic of China has claimed this territory since 1949, it was not until the islands were found to be rich in underground oil deposits that mainland China took decisive action to assert her supremacy.

In January, 1974, a Chinese amphibious force supported by four Mig fighters attacked the Parcel and Spratley Islands, a group of islands stategically located between the Strait of Malacca and Japan, and claimed the islands and their surrounding waters for China. It is believed that China's actions were meant as a warning to Japan, her main trading partner, who has been working with

South Korea to organize a joint undersea oil rig operation between the southern tip of the Korean peninsula and Japan's southern island of Kyushu.

An estimated 30 billion barrels of oil lie under the controversial Continental Shelf off the eastern shore of China. Since the Arab oil embargo of October, 1973, and the subsequent fourfold increase in the price of crude oil, this potential oil reserve has become increasingly important, particularly to the nations of Japan, Taiwan and Korea—who import approximately 90 percent of all their oil needs.

As part of an effort to locate economically recoverable oil and become independent of arbitrary OPEC price rises all three of these countries began 2 years ago to negotiate exploration agreements among themselves and contract with foreign firms to investigate offshore oil prospects.

Although international oil development firms are beginning to contract for the mining of undersea oil, the technologically advanced oil companies of the United States have recently been pressured by our own Department of State to abandon any operations in the Chinese Coastal Zone that might "irritate" Peking.

The New York Times of September 5, 1975, ran an extensive article on this singular interference by the State Department in the affairs of private businesses seeking to develop these foreign resources. According to the New York Times, the Ford administration has dealt with the problem of potential Chinese displeasure over American oil development—

by applying its long-standing general policy to the China waters. As described by a ranking State Department official, this policy is to discourage American companies from operating in areas where they could get involved in political difficulties.

This application of the general policy has had the effect of favoring China's claims.

The Times based its article on a study conducted over a 12-month period by the Carnegie Endowment for International Peace, which was published in the fall, 1975 issue of Foreign Policy magazine. In the study the Carnegie Endowment released some disturbing facts.

Among one of the first leases granted by the Government of Taiwan to develop that island's oil reserves was given to Clinton International, an American firm which then contracted with the Superior Oil Co. to do geological exploration in an area 500 miles north of Taiwan in the East China Sea. Superior secured an exploration rig and planned to drill in the area in April and May of this past year. But the White House and the State Department both personally intervened to prevent such action from being taken.

When Joseph Reid, president of Superior Oil's international division, visited Washington in February to finalize the plans for the offshore oil project, both the White House and the State Department intervened to discourage such action from being taken. Reid was told that his corporation would be denied the use of American satellites for navigational purposes during the course of the exploration, and that the American Government would render no assistance to either his ships or crews in the event of a confrontation with Communist Chinese naval vessels.

Finally, Reid was told by the State Department that Secretary of State Kissinger would personally take up the matter with the president of Superior Oil if the company proceeded with exploration in the area. The State Department contended that the Communist government in Peking had a substantial claim to the area, and they did not want a clash with them over such exploration.

In light of these pressures and complications arising with obtaining a drilling rig, Superior decided in February against the exploration.

Upon further investigation, the Carnegie Endowment found such heavy-handed techniques by the State Department and other agencies in defense of its détente policies. For example, 2 years ago the Commerce Department refused to allow a U.S. company to sell a drilling vessel to the Government of Taiwan. Specifically, the Commerce Department said that the vessel could not fly the U.S. flag, and that it could not carry any sophisticated equipment, and that no U.S. personnel would be given the protection of the U.S. Government while on the high seas. The company was threatened with the revocation of the equipment's export license if the vessel carrying that equipment ventured into disputed waters.

Yet other instances of difficulties encountered by American companies interested in drilling in supposedly neutral waters continue to arise. Korea, faced with similar energy problems as Taiwan, has encouraged major oil companies from the United States and other countries around the globe to explore in promising areas in the Yellow Sea, southwest of the Korean peninsula. Gulf Oil, which has already secured two concessions in this area, planned to drill in one area approximately half way between Korea and Communist China. Before drilling could begin, however, Gulf officials were approached by Deputy Secretary of State Robert Ingersoll, who strongly argued against any prospective activity in the oil-rich area.

The Korean Government, however, is very much interested in seeing Gulf Oil proceed with its contract, since without U.S. oil interests in the area Korea is completely dependent on OPEC and Chinese sources of crude oil. This is particularly important to South Korea in light of recent reports that North Korea's Kim Il Sung is planning an all-out offensive against the South sometime this winter. Both the People's Republic of China and the OPEC oil countries have been known to withhold vital resources in the interests of political considerations, and President Chung Hee Park is understandably worried that the safety of his country is under considerable jeopardy through its almost total dependence on unfriendly energy sources.

At issue here is the question of whether the U.S. Government is pursuing a true neutrality in its policy of enforced non-participation of U.S. industry in the oil-rich ocean floor. The New York Times has flatly stated that the manner in which the United States has been acting "has the effect of favoring China's claims." State Department policy is presently preventing U.S. firms from obtaining Overseas Private Investment Corporation—OPIC—risk insurance to cover drilling actions in the China Sea. Export-Import Bank loans are likewise being denied U.S. petroleum companies. In addition, the State Department's position that the Republic of China should not develop its continental shelf because the People's Republic of China claims it under its "one-China" policy is logically inconsistent. The U.S. Government allows U.S. investment onshore in Taiwan, even though Peking claims the island of Taiwan under the one-China policy, too.

There is an urgency about the outcome of these developments that cannot be ignored. Should the United States eventually allow private business to invest in offshore oil in Southeast Asia, the decision will have to come soon. It will take 6 to 8 years to complete production of an offshore rig in the continental shelf, and if production is not started within the next 18 months, inflationary cost factors will make such a venture impossible. Then again, these same factors will determine whether the Republic of China, along with South Korea and Japan, will be energy-sufficient or dependent on the whims of the PRC and the OPEC countries.

The only other alternative to a dependency on outside sources, friendly or not, for their energy needs is for these countries to develop a substantial nuclear energy capacity through nuclear reactor deployment, a disturbing prospect in light of the political repercussions that would necessarily entail.

Regardless of the economic and international implications of present U.S. policy, the U.S. role in this admittedly touchy situation should at least be consistent with existing international law principles and international treaty obligations, which at present it is decidedly not. The U.S. refusal to guarantee the protection of an American vessel and crew has the real effect of the U.S. Government deciding on behalf of private companies what should be the extent of their business interests, and enforcing that decision by coercion that is parenthetically helping the Communist Chinese to develop their own export capacity. In addition, it assumes a tacit approval of the Peoples' Republic of China's claim to territorial waters entirely outside of any legally recognized jurisdiction. By failing to encourage energy development by Korea and Taiwan, the United States contributes substantially to a power balance shift in East Asia in favor of Peking which will increasingly dominate the petroleum market in the region.

PERSONALITY POLITICS

It is best to remind those responsible for our foreign policy that they are putting trust in such traditionally unreliable governments as the People's Republic of China and the Soviet Union.

The policies that we have been

pursuing—from strategic arms limitation treaties to offshore oil "neutrality"—have relied heavily on Secretary Kissinger's perception of just how far the leaders of these major powers will go in order to preserve an advantageous détente.

But the "old guard" of the Soviet-Asian order is not going to be around much longer. China's Chairman Mao Tse-tung is now 81 years old, and ailing. Chou En-lai is terminally ill. Moscow's Brezhnev may step down after the Communist Party convention this spring—most certainly not long after the next United States-U.S.S.R. summit's conclusion. The new guard is not yet known, and may well decide to follow a foreign policy that is not so favorable to the United States.

Mr. Speaker, now is not the time for the United States to founder—to try to function without a strong international policy—in the vague hope that our withdrawal from international affairs will inspire the world toward unilateral nonaggression. The results of our foreign policy drift have been seen in Southeast Asia with frightening clarity, and have resulted in increased, not decreased, predatory violence around the world.

Today, perhaps for the last time in this century, the United States holds the upper hand in international political power. The Chinese are so afraid of encroaching Soviet hegemony that they are suppressing any talk of their formerly topmost prerequisite for normalization of relations with the United States—recognition of Taiwan as an integral part of the People's Republic of China. Furthermore, in its relations with the Southeast Asian nations, China has demonstrated that it has a greater stake in preserving good relations with the United States than in supporting Communist-led insurgencies of potential benefit to the Maoist cause.

At the same time, Moscow is increasing its invective against Sino-American relations, fearing that the U.S. preoccupation with Peking will weaken America's commitment to détente and strengthen opposition to the Soviet Union's declared intentions of eventual world domination. The December 8 U.S. News & World Report reported from Moscow:

Western experts here say that some Soviet officials fear the U.S. is moving toward what they define as a more "opportunistic" approach to détente—treating Russia and China as complete equals or even playing the two countries off against each other. This is an unsettling possibility for Soviet leaders, as their primary aim is to demonstrate that détente represents a special relationship between the U.S. and the Soviet Union, with China in an inferior role.

Mr. Speaker, there is no reason why the United States should continue on a course of psychological inferiority to the two Communist superpowers of the world who are, at least at the present time, militarily and politically dependent upon America's initiative in world affairs. It is critical that now, while there is still time, the United States concentrate on regaining her position as greatest of the world's powers, in order to help guarantee peace through a strong national defense.

Whatever course America chooses to pursue in 1976 will determine whether mankind is to have a choice to pursue true freedom in the world's next 200 years.

VINCENT M. IGO

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Massachusetts (Mrs. HECKLER) is recognized for 5 minutes.

Mrs. HECKLER of Massachusetts. Mr. Speaker, recently one of Foxboro, Mass., activist citizens, Vincent M. Igo, was honored when the local school committee named its administration center for him. Foxboro is part of the 10th Congressional District of Massachusetts, which I have the honor to represent in the House, and I have personally observed Vin Igo's work for his community and its residents.

I join his many friends in extending to Vin my sincerest congratulations and best wishes for his future success. The citizens of Foxboro are indebted to Vin Igo for his tireless efforts on behalf of the children of the community, through his long and productive tenure as a member of the school committee.

Vin Igo is a person who has given unselfishly of himself in all areas of community and I take personal pleasure in bringing his work to the attention of my colleagues.

Mr. Speaker, the Foxboro Reporter recently detailed the school committee's action in honoring Vin, with the announcement followed by an outstanding editorial on radio station WARA of Attleboro, Mass.

I insert the news story and editorial at this point in my remarks:

SCHOOL ADMINISTRATION CENTER NAMED TO HONOR VINCENT M. IGO

Foxboro has a new building this week, or rather an old building with a new name.

In a surprise announcement Monday night, the School Committee announced it would honor its Chairman, Vincent M. Igo, by naming "the former Intermediate School" at the corner of South and Carpenter streets the "Vincent M. Igo School Administration Center."

In making the announcement, Superintendent of Schools Dr. Troy Earhart stated, "In view of the dedicated and unselfish service which he has given over many years to the children of Foxboro, to staff members of the Foxborough Public Schools, and certainly to Foxboro's citizens, and since the Foxboro School Committee believes that he is most deserving of having the 'Carpenter Street' facility named in his honor, I take great pride in announcing the committee's decision to name this facility 'The Vincent M. Igo School Administration Center.'"

Mr. Igo was then congratulated by the remaining four members of the committee, who together with Dr. Earhart, had made their decision without Mr. Igo's knowledge.

The building complex named for Mr. Igo is reflective of his many years of community involvement. The older wing of the building contains the school administrative offices, and Mr. Igo has been a member of the School Committee for seventeen years, serving fourteen years as Chairman. The newer wing of the building presently serves community needs, and includes the Foxboro Community Center, Council for Human Services, Council on Aging and the Kennedy Center for Handicapped Children.

WARA EDITORIAL POINT OF VIEW

Congratulations to Foxboro's Vin Igo. This past week, it was announced that the old intermediate school has been named the "Vincent M. Igo Administration Center". Igo is the voice of Foxboro News on WARA, and has served on the town's school committee for 17 years, 14 as chairman. Superintendent Troy Earhardt said the school was named in honor of Igo due to his dedicated and unselfish service which he has given over many years to the children of Foxboro, to staff members of the Foxboro public schools, and certainly to Foxboro citizens. Igo has served the town in many ways over the past several years, and presently is assistant to the publisher of the Foxboro Reporter, as well as having other duties at the Foxboro Company. We think Vin Igo is well deserving of this honor and we wish him only the best in the future. We also commend the Foxboro school committee for honoring a distinguished citizen while he is alive. So many times we reserve honors till someone has passed away, and thus she or he never has the satisfaction of a job well done.

H.R. 9464—ONE MORE STALLING TACTIC

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. ARCHER) is recognized for 12 minutes.

Mr. ARCHER. Mr. Speaker, H.R. 9464, a short-term emergency natural gas bill, seeks to exempt sales of new on-shore gas to so-called "distressed' interstate pipelines from FPC price regulations until April 15, 1977. In fact, this bill is one more stalling tactic to avoid facing a real and worsening problem.

ASSESSMENT OF THE PROBABLE EFFECT OF H.R. 9464

First. This bill makes no effort to mitigate the natural gas shortage. It contains no provisions which will encourage gas exploration or additional production. The bill does not address the fundamental problem of low supply and high demand.

Second. H.R. 9464 will effectively foreclose some interstate pipelines from securing new gas supplies for the next two winters. If an interstate line is not found by the FPC to be a "distressed" pipeline, that pipeline can offer suppliers no more than the FPC-set ceiling rate for new gas: At the same time, the "distressed" pipelines can pay any rate for new gas. Inevitably the bill will operate to harm the pipelines presently able to serve their essential users, for they will, for the duration of the act, be unable to compete for new supplies. According to FPC, FEA, and OTA studies, it appears that H.R. 9464 will operate to the disadvantage of interstate pipelines serving the States shown below. See exhibit 1.

Third. The bill attempts to reallocate existing supplies of natural gas by an increased role of Federal regulation. The Federal Government—the FPC—will decide who is entitled to make emergency gas purchases. The Federal Government—again, the FPC—issues orders to say how the gas so purchased will be transported, and in this role can even

order new pipeline facilities to be built and existing nonfederally regulated facilities to be used. The FPC has no such power today.

Fourth. The bill puts the Federal Government squarely in the business of dictating retail rates for the sale of natural gas. Retail rates, always until now regarded as the province of State action and local concern, must, by law, conform to the plan of "end-use pricing"—that is, that industrial consumers must pay for emergency gas. The mechanism by which this is attempted is extremely cumbersome; "distressed" pipelines are required to submit very detailed weekly reports of such complexity that it is doubtful that the FPC will have time to read, much less audit or analyze, all that is filed.

Fifth. The bill will probably not permit the movement of substantial quantities of emergency gas this winter. Before gas can be purchased and moved to market:

The FPC must decide who the eligible purchasers are. This will be an appealable ruling which can be tied up in judicial proceedings for many months.

The seller must file for and receive a certificate of public convenience and necessity from the FPC. This process historically consumes several weeks, even when the FPC expedites its processing.

The grant, or denial, of a certificate is an appealable ruling.

Unless the purchaser has facilities in place to receive and transport the emergency gas, certificate applications for construction or transportation must be filed and approved. This process is very slow at the FPC. If past experience is any guide, a delay of many weeks is inevitable. The grant, or denial, of facility or transportation certificates is an appealable order.

The pipeline purchaser must determine which of its distributor customers are entitled to receive emergency gas under the "end-use pricing" rule.

This process will initially require State regulatory commission approval of the distributor's rate structure.

Judicial review at this stage may also be contemplated.

Sixth. The bill creates enormous uncertainties for producers. Currently there is litigation over whether producers have minimum delivery obligations to pipelines; the measure of such obligations, if they exist, and the sanctions for breach of the obligation will not be spelled out, in all probability, until the Supreme Court addresses these problems. The bill will result in further litigation on this issue because of the provisions of section 8, which purport to declare certain producer conduct unlawful, but which fail to define with any certainty what the producer's obligations are, coupled with section 11 which permits "any person" to institute civil action in any district court to enforce section 8.

As a practical matter, producers may well be forced to the conclusion that they cannot afford to accept any certificates for new service until they know what their obligations are; the threat of multiple litigation may preclude any other course of action.

Seventh. The bill attempts to abrogate provisions common to many producer contracts, which have been in use for many years and which have become standard in the industry. Changing the rules in the middle of the game does little to provide certainty, and can only operate as a disincentive to new investment when the investor is forced to ask himself how might the rules be changed again when congressional whim strikes.

Eighth. The bill authorizes the FPC to direct previously nonfederally regulated pipelines to transport gas for "distressed" interstate pipelines. The act provides no compensation to the pipelines whose facilities are thus preempted by Federal order, and no protection to the customers of the preempted pipeline who stand to lose their own service if the "emergency gas" is given priority by the FPC.

CONCLUSION

H.R. 9464 will solve no long-term or short-term natural gas problems. It cannot reasonably be expected to mitigate unemployment and economic hardship this winter. The bill affords a tremendous potential for interminable litigation, and introduces new uncertainties and new inequities into the regulatory structure.

The cumbersome mechanics of H.R. 9464 mark it as a futile attempt to solve a regulation-induced shortage by more intensive and more intrusive Federal regulation.

It is important to note that the full committee extended the emergency period an additional year from April 1976 to April 1977. This shifts the termination date from an election year to a nonelection year. This is a clear signal that Congress is being given a chance to avoid a decision on the long-term issue during 1976.

EXHIBIT I

STATES SERVED BY INTERSTATE PIPELINES WHICH WILL NOT BENEFIT FROM PASSAGE OF H.R. 9464

New England: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont.

West North Central: Iowa, Kansas, Minnesota, Nebraska, North Dakota, South Dakota.

South Atlantic: Delaware, Florida.

Mountain: Arizona, Colorado, Idaho, Montana, Nevada, New Mexico, Utah, Wyoming.

Pacific: California, Oregon, Washington.

STATEMENT ON INTRODUCTION OF H.R. 11173, TO AMEND SECTION 5701(a)(2) OF THE INTERNAL REVENUE CODE OF 1954 SO AS TO CHANGE THE BRACKET TAX ON CIGARS TO AN AD VALOREM TAX

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. McDADE) is recognized for 5 minutes.

Mr. McDADE. Mr. Speaker, I am today introducing legislation which would change the existing bracket system of taxing large cigars to an ad valorem system. Identical legislation, supported by the Treasury Department, was unanimously approved by the Ways and Means Committee in the 93d Congress, but did not reach the floor of the House.

Mr. Speaker, I urge favorable consideration of this legislation. The "bracket system" of taxation for large cigars, in effect since 1917, is archaic. Indeed, it is the only excise tax bracket system remaining in the Tax Code.

More important, it is inequitable, arbitrary, and discriminatory in impact. The present tax on cigars can range from about 7 percent to more than 12 percent, depending upon positions within price brackets.

In addition, Mr. Speaker, the legislation, by shifting the tax to the wholesale price of cigars rather than the retail price, would greatly simplify administration, collection, and enforcement of the tax by the Treasury Department.

The ad valorem rate on the wholesale price of cigars would be 8½ percent. This rate is necessary to prevent disproportionate increases in taxes for some manufacturers. Erratic results cannot be wholly avoided, but the 8½-percent rate, approved by Treasury, would minimize them. The revenue loss necessary to prevent disproportionate impacts would be less than $10 million.

Mr. Speaker, in the interests of equity, efficient administration, and revision of an archaic excise taxing system, I again urge favorable consideration of this legislation.

AMERICA—THE VULNERABLE—PART III

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, I noted in today's paper a statement that the General Accounting Office thinks that the Air Force might be wiser to buy 747 freighters, rather than continue with a proposal to strengthen the wings of the C–5A. That statement makes a number of presumptions, not all of which are valid, and it brings to mind once again the importance of this country's airlift capability.

A military force is of no value—until you need it. And no one seriously doubts that in today's world, we do need a formidable military force. Yet the value of that force continues to decline, because it is growing smaller and less capable of defeating our country's most likely opponents in any war, because the forces of those countries are increasing while ours are declining.

When you have less total force, you become more dependent on mobility—the ability to strike a decisive blow at any time, in any place depends on whether you can get there. A smaller force has to have more mobility, because it can be spread only so thin. In our present situation, with the smallest military forces we have had in more than two decades, the mobility of those forces is of paramount importance. We are inclined, in talking about defense, to speak of weapons. They are important. But so are logistics. A weapon that cannot reach the battlefield, a weapon that cannot be supplied with ammunition, a weapon that cannot be replaced—is useless.

As it happens, the C–5A is the only airplane that we have that is capable of reaching anyplace in the world in a matter of hours, completely independent of

any land base outside of the continental United States. That is a very large capability to have on our side.

Every other military carrier we have today is inferior to the C–5A in that respect. The carrier we use most, the C–141, cannot be refueled in flight. That means that for almost any transoceanic mission, the C–141 must have access to a foreign base. We cannot be certain that it will receive that kind of friendly help. In the 1973 Middle East conflict, American supplies would have been denied altogether, save for the capabilities of the C–5A.

The thing we must keep in mind is not whether it might be cheaper to buy 747's than to repair the C–5A, but whether that would be better.

Some Members of Congress do not like to think in terms of what is best from a military point of view, but only what is cheapest from a budgetary point of view. In their zest to save dollars, they forget what the purpose of a military force is. In this case, it might be that a 747 can carry much weight. It can. But that is not the point. The point is whether that airplane, or any other airplane that is essentially a civilian design, is well suited for a military mission. The question is, what airplane will accomplish the mission that is required for military purposes?

It is foolish to think that the issue is anything else, in this, or any other case. It is true, for example, that many a civilian firearm design will do the same things a military firearm might do—but those civilian arms are not meant for combat situations. Military requirements are different, and civilian tools will not always suit the task.

The issue of what kind of airlift we will have for our military forces is every bit as important as what kind of forces we will have. Right now, our airlift is inadequate. No doubt, when the C–141 was designed, some budget-minded Member of Congress, not unlike the Senator from Wisconsin, asked whether it should have refueling capability. And no doubt, some soul said that to have that capability would be what they called in those days goldplating, for after all we had and would always have secure forward bases for refueling. And no doubt the Pentagon acquiesced. So, today, we find that we have no such secure forward bases, and the bulk of our airlift does not meet our needs. We can see readily that it is not only possible, but entirely likely, that the bulk of our air transport is all but useless in certain types of conflict, including the ones that are most likely to be of greatest danger to us.

Here we are today, about to debate whether to fix and strengthen certain weaknesses in both our principal military transports, the C–141 and the C–5A, and the same kind of issue is raised. And the issue, today as it undoubtedly was then, is whether the airplane can do what must be done. We know that the C–5A can do it. We don't know that about the 747, General Accounting Office or no.

But because of discussions that in the past have forgotten the whole point of military forces, we today have a force that is vulnerable—vulnerable because it cannot be moved at will. And what makes our forces vulnerable makes our country vulnerable.

CAPTIVE NATIONS HONOR ROLL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 5 minutes.

Mr. FLOOD. Mr. Speaker, each year at this time the National Captive Nations Committee releases the honor roll of outstanding Americans and others who remembered the continuing plight of the captive nations during and after the period of Captive Nations Week.

The 1975 honor roll is an impressive one, and it is my distinct pleasure to introduce it into the RECORD. Also, a current tract on "The New Captive Nations," published by the Americanism Educational League in California and written by Dr. Lev E. Dobriansky of Georgetown University, is included to indicate some of the current thinking on détente and the captive nations:

NATIONAL CAPTIVE NATIONS WEEK PROCLAMATIONS AND STATEMENTS—1975

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Youngstown, Hon. Jack C. Hunter.

Pennsylvania

Philadelphia, Hon. Frank L. Rizzo.

Rhode Island

Providence, Hon. Vincent A. Cianci, Jr.

Virginia

Newport News, Hon. Harry E. Atkinson.

CITIZENRY

Individuals

J. Fred Schlafly, President, American Council for World Freedom.
Orest Szczudluk, Ukrainian Congress Committee of America, Boston, Mass.

Newspapers/Publications/Radio

Asian Outlook (Taipei, Taiwan, Republic of China).
Boston Globe (Boston, Massachusetts).
Conservative Digest (Washington, D.C.).
Free China Weekly (Taipei, Taiwan, Republic of China).
New York Daily News (New York, N.Y.).
The Pilot (Boston, Massachusetts).
Rising Tide (Washington, D.C.).

Washington Report of the Air (National Security Council, Washington, D.C.).

THE NEW CAPTIVE NATIONS

(By Dr. Lev E. Dobriansky)

It is with sadness and a deep sense of tragedy that we view South Vietnam and Cambodia as the most recent additions to the long list of captive nations. Some apologists are already indulging in unrealistic rationalizations about "a united Vietnam," and "coalition governments." But the glaring fact is that two free and determined nations have fallen under Communist domination.

These tragic events demonstrate clearly the validity of the Domino Theory as nation after nation falls before imperialist Communist power, with its ultimate center in Moscow. By mid-1975, no less than 29 independent nations had fallen under the Comintern's sway—and around the world the despairing whispers rise, "Who's next? Laos? Thailand? Republic of China? South Korea? The Philippines?"

DOOMSDAY PREDICTIONS

In this unhappy period we hear doomsday predictions about the decline of Western civilization, another Great Depression, uncontrolled inflation, financial collapse, uncertainty about democratic government and general social upheaval. In all of this, it is clear that we need a basic reassessment and redirection of our policy toward the East, primarily toward Soviet Russia!

I share none of the grim doomsday outlook concerning the fate of the West, and I believe that this disaster course is needless. For example, our costs in Vietnam would have been meager, as expected, had the U.S.S.R. and Red China not invested heavily in support of their "comrades." In the Mideast, the problems can be directly traced to Soviet arms policy, Russian guidance on oil strategy, their precipitation of the Yom Kippur War, all of which generated the West's present acute energy and financial problems. And these factors affect the pinched economic state of every working American today, whether he is aware of it or not.

SELL-OUT TO PEKING?

What is beginning to show clearly is that the patchwork diplomacy of detente is only a shifting facade for Cold War operations, with America paying a much higher price than Moscow. In the Far East, Russian-backed North Korea has stepped up its military and subversive pressures. Japan faces severe internal Communist pressure with backstage assists from Moscow. Our loyal ally, the Republic of China, fears a sell-out by us to Peking. And the spectre of Red China's reconciliation with Moscow hovers over the area . . . and beyond!

Regarding the Soviet Union, the necessary linking of detente and human rights becomes far more important than anywhere else in the world, for these reasons: (1) The continual and unremitting threat posed by Moscow to our national security; (2) the peculiar composition of this contrived state—the Soviet Union—a land empire which is almost unique; and (3) Moscow's long and continuous suppression of human and national rights, which all-in-all far exceeds the totalitarian records of Nazi Germany or Fascist Italy.

INSECURE POSITION

A fundamental question about the value of detente is this: how does the opposing party view this process? Evidence is abundant that Moscow views "detente" as merely a conduit for its fixed policy of systematic ideo-political warfare against the American economic system and national interests. For us, detente may be purely a process of negotiation—practical and non-ideologic. But if we fail to understand Moscow's conception on it, we will find ourselves in an increasingly insecure position, both within and without.

Up to the Indo-China debacle, it might be said that pursuit of detente hadn't violated any basic principle to which we as a nation subscribe, while at the same time it really had not advanced our basic principles. As George Meany has said, "We are not building lasting structures of peace. We are building castles of sand on the watery foundations of petty greed, wishful thinking, irresponsibility, self-indulgence, and plain old ignorance!"

MYTH STILL PERSISTS

Recently we've heard a great deal about the need for "a conceptual breakthrough in nuclear arms control." But a more fundamental breakthrough is needed in our understanding of the Soviet Union. The myth that the U.S.S.R. is a nation-state, similar to ours, still persists. But over half of the population of the U.S.S.R. is non-Russian, and most of this part is divided into compact, distinctive nations made captive by their Russian neighbors in the 1920s.

Thus, to speak of a "Soviet people" is to distort the multi-national pattern of the U.S.S.R. and to ignore the real aspirations of its numerous nations. If the process of detente is pursued without awareness of this multi-national character of the U.S.S.R., we will, by virtue of our economic contributions, actually guarantee the permanent captivity of the many nations in the U.S.S.R., and to our own disadvantage! For the foundation of Moscow's power and world-wide ambition rests in these resource-filed captive nations and their large reservoirs of manpower.

For nations that have been subverted, militarily conquered, and forcibly incorporated into the U.S.S.R. since 1918, the current belief in the "noninterference in internal affairs" myth serves as a crude mockery to human and national rights. If Moscow's domain were extended to the Atlantic, through military conquest, the same phony cry of "non-interference" would be raised!

GENOCIDED BY STALIN

Actually, we should press hard now for these minimum concessions: (a) the reunion of families and elimination of extortionate Soviet duty taxes on relief packages; (b) return to religious freedom through resurrection of the major Ukrainian Orthodox and Catholic Churches, which were genocided by Stalin; (c) the beginnings of direct diplomatic relations with the larger national republics; and (d) end of psychiatric and labor camp imprisonment of dissidents.

Indeed in the wake of the Indo-China tragedy, the time is now for a massive campaign to educate our people about all the captive nations, especially those in the U.S.S.R. The greatest weakness and vulnerability of Moscow lies in the existence of these captive, non-Russian nations within the U.S.S.R. itself. Moscow knows this well, but our leaders scarcely appreciate it. And we can proceed in the knowledge that the captive nations are our firmest allies, in their overwhelming desire to be free of the Russian yoke.

REMEMBER PAST ERRORS

Let us not forget that our past errors and misdirected action saved Lenin's tyrannical regime and contributed to the death of the independent non-Russian republics in the 1920s . . . provided for the industrial foundations of the U.S.S.R. in the '30s . . . rescued this empire-state from destruction in the 40s, and helped extend its dominion in Central Europe, Asia and Cuba in the '40s and '50s . . . and, under cover of "detente" tolerated its vital support for Hanoi's aggression in the '60s and '70s.

Continuing and repeating such errors, as evidenced in the present detente process and its self-deluding effects, could lead to our own destruction. We too could become a captive nation!

DISTRICT COMMITTEE'S ACTION ON SENATE CONFERENCE RESOLUTION 78, THE SENATE RESOLUTION DISAPPROVING THE D.C. COUNCIL'S BOND AUTHORIZATION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. DIGGS) is recognized for 5 minutes.

Mr. DIGGS. Mr. Speaker, on Saturday morning, December 6, 1975, the Senate passed Senate Concurrent Resolution 78, a resolution disapproving Act 1 to 57 of the Council of the District of Columbia. The Council's Act authorizes the issuance of $50 million in general obligation bonds to refinance two debts the District Government owes the U.S. Treasury. On December 8, 1975, Senate Concurrent Resolution was referred to the House District Committee for consideration. The full committee, following 3 days of hearings and markup, voted 19 to 1 on Thursday, December 11, 1975 against reporting the resolution to the House.

Because Senate Concurrent Resolution 78 passed both the Senate District Committee—7 to 0—and the Senate—80 to 3—by such wide margins, I felt it incumbent upon me as chairman of the House District Committee to advise the House: First, of the procedures we followed, and second, of the discussions and rationale for the action taken by our committee on the resolution.

First, let me say that most of our members expressed the view either for the record or to me privately that if the choice had been theirs, they would not have brought this matter before Congress in the middle of the New York financial crisis. Most felt that because the District officials brought this matter before Congress on the heels of the often bitter and divisive debate on New York, serious questions were raised about the level and extent of communication, confidence, and trust between the District Government officials and Congress. While I personally have been seeking, in a low-keyed way, to create a climate of communication and confidence between the local elected officials and both Houses of Congress, it is clear that, if the partnership is to succeed, greater effort must be made on the part of all concerned to strengthen our channels of communication, to eliminate the attitudes of suspicion and distrust, and to accept the fact that the Nation's Capital is both a local and a Federal city.

This, in no way, is to suggest any weakening of our commitment to home rule; quite the contrary it is a reaffirmation of the commitment of the members of our committee to make home rule work and work effectively. We are equally committed to protecting the Federal interest, and do not believe that the objectives of home rule and protection of the Federal interest need be in conflict.

As I have already indicated, most of us on the committee would have waited until the New York situation had cooled down before confronting the Congress with any kind of bond authorization bill. But the decision was not ours; it was that of the elected officials of the Dis-

trict, operating under authority given under Public Law 93-198. This authority, the authority to issue bonds, was neither questioned nor challenged during the home rule debate and conference considerations, except on the matter of whether or not a public referendum should be required or simply permitted in connection with issuing bonds. Therefore, we approached our task of considering Senate Concurrent Resolution 78 not in the spirit of what we would have done or what they should have done, but whether permitting the bond authorization act to take effect at this time would adversely affect the Federal interest.

In considering Senate Concurrent Resolution 78, the full committee conducted 2 days of hearings and had the benefit of the testimony of 10 witnesses, including: Mr. David Mosso, Fiscal Secretary, U.S. Treasury, the official primarily responsible for handling the District's accounts at the Treasury; Mr. Elmer B. Staats, Comptroller General of the United States; Mayor Walter Washington; District of Columbia Chairman of the Council Sterling Tucker; Mr. Comer Coppie, Director of Budget and Finance for the District of Columbia; and others from the private sector familiar with the District's financial condition and the state of its accounts and records. Pursuant to instructions from the committee, five members of our committee, including myself and the ranking minority member, met separately with Senator EAGLETON and Mayor Washington in an effort to both fully understand the issues and hopefully to arrive at a compromise in this regard.

In structuring our hearings, the committee's position was that while the matter of the fiscal condition of the city and the bond act of the Council were somewhat related, they should be treated separately because they raise different questions.

The first day of our hearings concentrated on H.R. 11000, a bill which I introduced with 7 cosponsors, including the ranking minority member, that would provide for an independent audit of the financial condition of the District Government. At that hearing, the Comptroller General told us that there most certainly was a need for an independent audit of the city's books and records. While stating that the first and most pressing need was to develop an adequate financial management system for the District, because the city's records are kept in accordance with standards for Federal agencies and are not kept in accordance with generally accepted accounting procedures for municipalities, Mr. Staats assured the committee that the financial situation of the District was not alarming and in no way parallel to the New York situation.

Other witnesses testified to the need for an independent outside audit of the District, but most agreed with Mr. Staats that what was needed first was to review the present management systems and to establish a new system or systems whereby the city would be operating in accordance with generally accepted municipal accounting practices. Otherwise, they felt that an audit would be unproductive.

Mr. W. Keith Engel, President of the District of Columbia Institute of Certified Public Accountants—the D.C. Chapter of the American Institute of Certified Public Accountants—advised our committee that his organization, using their members who have special expertise in municipal fiscal affairs, would on a voluntary basis undertake a 6- to 8-week survey of the management systems deficiencies and needs of the District of Columbia Government and advise the committee of an approach for an in-depth analysis leading toward new management systems and legislation to define the scope of an audit.

We have already begun preliminary negotiations with the association regarding this survey. However, it is critical to stress that the witness who testified about the need for rational management and accounting systems stated clearly and unequivocally that this should not be determinative of whether or not the city should be allowed to go forward with bonds that are simply designed to refinance, at a lower rate of interest, an existing debt the city owes the U.S. Treasury. Savings for the city could be between $400,000 and $600,000 per year over a 30 year period. Under the act, the Mayor can reject any and all bids for the bonds and he has indicated that he will do so if the bids do not reflect a clear and substantial financial gain for the city.

Our second hearing focused on Senate Concurrent Resolution 78 and specifically whether the Congress should veto the Council's Bond Authorization Act. I think it important to understand the specificity of the Council's Bond Act. It is not to embark on a program of capital projects—which incidentally would have to be approved by the Appropriation Committees in the first instance—but to roll-over existing debt at a lower interest rate. The Assistant Secretary of the Treasury, who is responsible for the District's accounts, while quite properly taking no position on whether or not the Congress should veto the Council's act, stated:

> If the District were to issue its own obligations, they would be tax exempt, exempt from both Federal and state taxes as I understand and therefore, with an adequate credit rating, they would normally sell at a yield less than Treasury securities which means that they would cost the District less for interest expense.

That statement crystalized the issue for many of us. The Bond Authorization Act is not a $50 million commitment for new programs, but merely an option for the city to go to the private market for funds at an interest rate cheaper than the 8 percent interest rate paid on Treasury loans. As one Member described it, it was simply an authorization for the city to save money since it is estimated that the city would save $400,000 annually for every percentage point it obtains below the Treasury 8-percent level.

The committee was concerned that, in going to the public market, District officials be mindful of the New York financial crisis and assure that in entering the market a savings in fact be realized. We approached the Mayor on these matters and in response he submitted the following letters which satisfied us relative to those two issues and in which he also made a commitment to confer with both Senator EAGLETON and myself prior to committing the city to the sale of the bonds:

THE DISTRICT OF COLUMBIA,
Washington, D.C., December 9, 1975.

HON. CHARLES C. DIGGS,
Chairman, Committee on the District of Columbia, Longworth House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: I wish to reaffirm my commitment to maintaining the spirit of cooperation and partnership that has existed between your Committee and the Government of the District of Columbia.

The need for continued cooperation was emphasized at the hearing held this morning on Senate Concurrent Resolution 78. In this regard, I intend to confer with and keep the chairmen of the District Committees of both Houses appropriately advised as we proceed wtih our preparations for the bond issue. If the bond authorization act is permitted to go into effect, as I strongly believe it should, we will inform the committees of the numerous steps that will have to be taken in order to bring the bonds to market.

It is my intention to reject all bids on the City's bonds if the sale of the bonds at that time would not result in significant savings to the District. An average rate of interest, around 7 percent, would be required to yield significant savings. The City would save more than $400,000 a year by refinancing the two Treasury loans at an average interest rate of 7 percent with a maturity of 30 years. Total savings would equal approximately $12,000,000 under those circumstances.

I greatly appreciate your interest in the District's bond program.

Sincerely yours,

WALTER E. WASHINGTON,
Mayor.

THE DISTRICT OF COLUMBIA,
Washington, D.C., December 10, 1975.

HON. CHARLES C. DIGGS, Jr.,
Chairman, Committee on the District of Columbia, U.S. House of Representatives, Longworth House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: In my letter to you dated December 9, 1975, I reaffirmed my commitment to maintain the spirit of partnership between your Committee and the District Government. Further, I stated my intention to confer with the Chairmen of the House and Senate District Committees in order to keep them advised as the District of Columbia proceeds with its preparations for the proposed bond issue.

In view of the Committee's deliberations today on S. Con. Res. 78, I believe it important to ensure a full understanding as to what was meant by my commitment. I will consult and seek the advice and counsel of the Chairmen of the House and Senate District Committees as I seek to determine just when the District should offer the proposed issue to the market.

Our financial advisors, who appeared before the Committee on December 8, 1975 will advise the city on market conditions and other factors to be considered in finally setting the date for the actual offer of the proposed issue.

I fully intend to cooperate with the Congress as necessary to ensure that the city will be able to exercise its bond authority.

Sincerely yours,

WALTER E. WASHINGTON,
Mayor.

Finally, let me say that the committee approached its task in a most serious

way, looking not only at Senate Concurrent Resolution 78, but down the road because of our concerns about the broader implications of Senate Concurrent Resolution 78. We see a number of unresolved and complex issues involving the city—unfunded pension liabilities, increasing budget, decreasing tax base, just to mention a few—issues which, if they are to be resolved, will require the diligent effort of both Houses of Congress. Therefore, it was in the spirit of cooperation that we approached Senator Eagleton and we are in agreement on a number of matters relative to the future of this city and the role and responsibilities of Congress. Senator Eagleton said that he did what he felt he had to do with respect to the Bond Authorization Act, and we likewise feel that we did what we had to do on this issue. Our approaches were different but our objectives were the same.

The committee realizes the role that Congress through the years has played in bringing us to where we are today, and see the oversight and legislative roles it must continue to play in order to keep the Nation's Capital a viable Federal and local city. We will be making every effort to work with officials of the District Government, the appropriate committees of our own body and the Senate as we collectively, in the spirit of home rule and protecting the Federal interest, move toward making the Nation's Capital the Nation's model.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New Jersey (Mrs. MEYNER) is recognized for 5 minutes.

Mrs. MEYNER. Mr. Speaker, I was unable to be here on Friday. I would like to take this opportunity to indicate how I would have voted if I had been present:

"Yea" on rollcall No. 774, the conference report on House Concurrent Resolution 466, the second concurrent resolution on the budget;

"Yea" on rollcall No. 776, the conference report on H.R. 8122, the public works appropriations bill; and

"No" on rollcall No. 777, the conference report on H.R. 9861, the Defense Department appropriations bill.

THE ENERGY POLICY AND CONSERVATION ACT DESERVES THE SUPPORT OF CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. DODD) is recognized for 5 minutes.

Mr. DODD. Mr. Speaker, I rise to urge my colleagues to support the Conference report of the Energy Policy and Conservation Act of 1975.

After almost a year of debate and compromise with the President, I believe this legislation, S. 622, is a worthy attempt by Congress to get this Nation on the road to energy self-sufficiency.

In future years, we will be able to look back to this legislation as a major influence in a program of national energy conservation, ending a long period of national energy waste.

We will all agree, however, that S. 622 is not a perfect bill. Its obvious weakness is its provisions for gradual decontrol of oil prices after an initial price rollback.

Our choice today—gradual or total and immediate decontrol—is not what many of us would like. In fact, this Chamber has many times before considered oil price decontrol and has always rejected it.

But unless we support the passage of the Energy Policy and Conservation Act, immediate decontrol and all that it would mean in terms of consumer costs, would be a reality.

I come from a New England State, Mr. Speaker, which is in an area of the country that depends upon imported oil for about 70 percent of its oil needs. If I thought for one moment that lifting price controls on "old" oil would end that dependence upon unstable energy sources at a cost a middle-income family could afford, then I would be leading the forces for immediate decontrol.

But, the facts indicate a different situation entirely. That fact is that a growing portion of our domestically produced oil, "new" oil, is already decontrolled and selling at the free market price. The fact is that there has been absolutely no significant effect as a result of this decontrol on the amount of oil imports used in New England.

Mr. Speaker, the fact is that we have no assurances that domestic oil supplies would sharply increase as result of further decontrol of oil prices.

What we can be sure of is that those of us in my home State of Connecticut who use this vital energy source to heat our homes and run our industries, and consumers across this country, would be paying higher prices across the board within a very few months after price controls are lifted.

A Library of Congress study conducted a few months ago shows that Americans would have to pay $40 billion in extra expenses in 1976 alone if total decontrol was to occur at once. That would mean an $800 increase in bills next year for an average family of four.

Even under gradual decontrol, New England residents can expect at least $750 million in additional costs after the 40-month control period is over.

In healthy economic times, we would think twice about instituting such a costly proposal as total decontrol. To do so today, with more than 8 million Americans out of work and countless other millions preparing for the roughest winter in four decades, would be intolerable.

If we are to make the choice, then, between gradual decontrol of oil prices over a 40-month period and immediate decontrol, we ought to vote for the former and lesser of the evils, and hope that future Presidential policy will lead to reinstatement of equitable—for consumers and industry—controls on the price of oil.

Mr. Speaker, I also would like to point out to my colleagues, some other provisions of this comprehensive energy bill before us today.

The House recognized the need to instill some competition into our energy industry when it accepted my amendment to prohibit partnerships, or joint ventures, among the largest oil companies in the development of energy resources on Federal lands.

The House-Senate conference, however, limited the prohibition to joint bidding on future Federal offshore leases to develop oil and gas resources.

As it now stands, the amendment also provides for studies to determine the feasibility of extending the joint bidding prohibition to all Federal leases, including onshore leases and those for development of coal and oil shale.

Under this amendment, nine oil companies—companies producing more than 1.6 million barrels of oil a day—will be barred from bidding together for leases on the Outer Continental Shelf.

This would in no way prohibit the small producer from entering into partnerships with these major oil companies or among each other. In effect, while the majors will be forced to go it alone or with the independents, the small companies will have a chance to compete for the first time for the most lucrative offshore leases.

The amendment also would make similar Interior Department regulations binding by law. The Interior regulations, proposed more than a year ago, were promulgated by the Secretary only after the House passed its version of the prohibition.

The Interior Department, then, also has recognized the need of such a regulation. It is the responsibility of Congress to insure that these prohibitions on joint bidding are not rescinded at some future point through constantly changing department policy.

I believe the conference version of my amendment is a small, but significant step in the ultimate recovery of energy industry competition. For it is competition that will lead, in the end, to greater energy production and lower consumer prices at the gasoline pump.

We can also take some satisfaction in the conference acceptance of some strong, and long overdue, auto fuel economy standards. Regulations for all car models built by 1985 to run at 27.5 miles per gallon, will certainly mean a significant savings in gasoline each day.

These automobile fuel savings, along with the energy saved through more efficient home appliances, which must be 20 percent more efficient than 1972 models by 1980, should help to control our future use of increasingly rare energy resources.

Mr. Speaker, the Energy Policy and Conservation Act has been a long time in coming, and it deserves the wholehearted support of his body.

A VICTORY FOR CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. PHILLIP BURTON) is recognized for 15 minutes.

Mr. PHILLIP BURTON. Mr. Speaker, I would like to report to you about a victory, not just for a congressional subcommittee and its chairman, but a vic-

tory for Congress. This is a story about the preservation of the principle that Congress must be free to do its legislative and oversight activities without interference from the Executive.

Late in the afternoon of Monday, December 8, 1975, after 4 months of recalcitrance, Commerce Secretary Rogers Morton finally bowed to the powers of Congress and agreed to comply with a subpena for Arab boycott information.

The subpena, issued by the Subcommittee on Oversight and Investigations of the Committee on Interstate and Foreign Commerce, was for reports about requests made to American companies to participate in the Arab trade boycott and are filed with the Department of Commerce pursuant to the Export Administration Act.

These reports are needed by this investigative subcommittee in order to fully evaluate the impact of the Arab boycott on American commerce, to ascertain whether Federal laws related to the boycott activities are effective as well as whether new laws are needed. Under the leadership of its very able chairman, JOHN E. Moss of California, the subcommittee succeeded in obtaining all of the information it sought without giving up any of the powers vested to the Congress under article I.

The subpenaed material will be handled pursuant to the Rules of the House of Representatives, rule XI(K) in particular.

On the morning of December 8, 1975, the subcommittee received a very strong statement of support for the powers of Congress from 27 law school professors, including six law school deans, from throughout the country. That letter, well worth reviewing by all Members, is as follows:

Hon. JOHN E. MOSS,

Chairman, Subcommittee on Oversight and Investigations, House Committee on Interstate and Foreign Commerce, Rayburn Building, Washington, D.C.

DEAR MR. CHAIRMAN: We are writing in regard to the contempt proceedings commenced by the Subcommittee on Oversight and Investigations against Commerce Secretary Rogers Morton for refusing to comply with the subpoena for Arab boycott reports compiled pursuant to the Export Administration Act. This controversy involves fundamental principles of government which must be preserved.

We find that common sense and long-established rules of construction cannot support the notion advanced by, and on behalf of, Secretary Morton that Congress has foreclosed itself from access to that information by a confidentiality section in the Act which does not mention Congress. Congress can surrender its constitutionally-mandated duties in a statute only by express language, not by implication or silence.

Therefore, we urge the Committee on Interstate and Foreign Commerce not to contribute to the continued destruction of congressional authority. The work of congressional oversight and investigations—to inquire into how efficiently tax funds are being spent, determines the effectiveness of Federal laws as well as how fully they are being enforced, and to ascertain whether new laws are needed—serves an essential role of accountability in our government. The constitutional plan of checks and balances, a basic safeguard for American liberties, is constantly endangered by the failure of Congress to assert its authority vis-a-vis the Executive. Accordingly, we urge you not to let this case prove to be another instance of such surrender. The rights at stake are not those of individual Congressmen, they are the rights of the American people represented by you and your colleagues.

Although the contempt sanction may seem stringent to some, it remains the only viable means by which Congress may enforce its responsibilities to obtain information from a recalcitrant Executive branch official. Surely the events of "Watergate" have revealed the necessity for effective congressional oversight, even of those closest to the President for as the Supreme Court recognized in *United States* v. *Nixon*, even a President is not above the law.

We would expect, of course, that once the subpoenaed reports have been received, that you will handle them in a responsible manner consistent with the Rules of the House of Representatives, your oath of office, and with respect to the rights of the affected parties.

Philip Kurland, Professor of Law, University of Chicago School of Law.

Francis Alfred Allen, Professor of Law, University of Michigan School of Law.

Edward L. Barrett, Jr., Professor of Law, University of California at Davis.

Paul Bender, Professor of Law, University of Pennsylvania Law School.

Verne Countryman, Professor of Law, Harvard University Law School.

Alan M. Dershowitz, Professor of Law, Harvard University Law School.

David L. Dickson, Professor of Law, Stetson University College of Law.

Norman Dorsen, Professor of Law, New York University Law School.

Charles T. Duncan, Dean, School of Law, Howard University.

Irving Ferman, Professor of Law, Howard University.

Matthew W. Finkin, Associate Professor of Law, Southern Methodist University School of Law.

Joel L. Fleishman, Professor of Law and Policy Science, Duke University School of Law.

John J. Fynn, Sr., Professor of Law, University of Utah.

Joseph Goldstein, Walton Hale Hamilton Professor of Law, Yale Law School.

Gary S. Goodpaster, Professor of Law, University of California, at Davis.

Neil S. Hecht, Professor of Law, Boston University School of Law.

Richard G. Huber, Dean, Boston College Law School.

Thomas G. Krattenmaker, Professor of Law, Georgetown University Law Center.

Pierre R. Loiseaux, Dean of Law, University of California, at Davis.

Burke Marshall, Professor of Law, Yale University.

Arval A. Morris, Professor of Law, University of Washington School of Law.

Charles J. Morris, Professor of Law, Southern Methodist University School of Law.

Kenneth L. Penegar, Dean, School of Law, University of Tennessee Law School.

Lucas A. Powe, Jr., Professor of Law, University of Texas Law School.

Victor G. Rosenblum, Professor of Law, Northwestern University School of Law.

Joseph Bradley, Professor of Law, University of Indiana.

Jonathan Rose, Professor of Law, Arizona State University.

Terrance Sandalow, Professor of Law, University of Michigan School of Law.

George Schatzki, Professor of Law, University of Texas Law School.

William Schwartz, Professor of Law, Boston University School of Law.

Paul M. Siskind, Dean, School of Law, Boston University School of Law.

Leonard P. Strickman, Associate Professor of Law, Boston College Law School.

Clyde W. Summers, Professor of Law, University of Pennsylvania Law School.

Harry H. Wellington, Dean, School of Law, Yale University.

Harvey L. Zuckman, Professor of Law, Catholic University School of Law.

Lewis B. Schwartz, Professor of Law, University of Pennsylvania.

Edgar Cahn, Co-Dean, Antioch School of Law.

AMENDMENT TO H.R. 9771

(Mr. ULLMAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ULLMAN. Mr. Speaker, I request unanimous consent to include in the RECORD the text of an amendment which the Committee on Ways and Means has approved and which we expect to ask the Rules Committee to make in order as an amendment, as a title III to H.R. 9771.

Mr. Speaker, I also request permission to insert in the RECORD an amendment to be offered by a Member to be later designated which we will request that the Rules Committee make in order to the amendment to which I referred above.

The text of the committee amendment which will be offered as a title III is as follows:

Page 49, after line 9, insert the following new title:

TITLE III—AIRPORT AND AIRWAY TRUST FUND

SEC. 301. AUTHORIZATION FOR EXPENDITURES FROM TRUST FUND

(a) AMENDMENT OF 1970 ACT.—Subparagraph (A) of section 208(f)(1) of the Airport and Airway Revenue Act of 1970 (49 U.S.C. 1742(f)(1)(A)) is amended to read as follows:

"(A) incurred under title I of this Act or of the Airport and Airway Development Act Amendments of 1975 (as such Acts were in effect on the date of the enactment of the Airport and Airway Development Act Amendments of 1975);".

(b) AMOUNTS NOT TO BE USED FOR TERMINAL DEVELOPMENT.—Section 208(f)(1) of such Act is amended by adding at the end thereof the following new sentence:

"Nothing in this paragraph shall be deemed to authorize the making available of amounts to meet obligations incurred for terminal development other than terminal development authorized by subparagraph (A) as in effect on the day before the date of the enactment of this sentence."

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to obligations incurred on or after the date of the enactment of this Act.

The text of the amendment which we are requesting the Rules Committee to make in order as an amendment to the above amendment is as follows:

In proposed section 301, strike out subsections (b) and (c) and insert in lieu thereof the following:

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to obligations incurred on or after the date of the enactment of this Act.

ADMINISTRATION PENNYPINCHING THREATENS NATIONAL PARKS

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SEIBERLING. Mr. Speaker, recent hearings before a House Government Operations Subcommittee have revealed a bleak picture of the increasingly seedy condition of much of the Nation's magnificent National Park System, resulting from administration budget constraints on National Park Service personnel and operating funds over the last several years. According to a recent article in the Akron Beacon Journal, our colleague, Representative WILLIAM C. MOORHEAD, chairman of the subcommittee, has pointed out that manning levels for park operations have remained essentially the same as they were 10 years ago, despite a doubling of the number of park visitors and the addition of hundreds of thousands of new acres to the park system. Representative MOORHEAD is quoted as saying:

It has reached the point where existing parks are threatened with deterioration, and new parks are manned—if at all—by only skeleton crews.

The fault for this serious situation can be laid at the door of the Office of Management and Budget. Now the OMB, according to another recent article in the Akron Beacon Journal, has issued a new directive instructing the Secretary of the Interior to acquire no new national park land, despite authorizations of such acquisitions by Congress. Specifically the directive would instruct the Secretary to spend no money from the Land and Water Conservation Fund in fiscal year 1977. This $300 million fund is supplied by revenues generated from offshore oil leases. These revenues are expected to exceed $7 billion this year. If none of the $300 million is spent next year, the money will not be available to meet other needs of the Government, since it is earmarked only for land acquisition for parks and recreation.

Failure to spend this money will not even help in the battle against inflation. The cost of land is constantly going up, especially in urban areas. Postponement of purchases now means more money will have to be spent when the land is acquired in later years.

The nature of the problem has been well described in a recent Akron Beacon Journal editorial. Copies of the editorial and news articles follow these remarks:

DIRECTORS DECRY 'SEEDY' CONDITION OF NATIONAL PARKS
(By David Hess)

WASHINGTON.—Some of the nation's most priceless assets—its national parks and historic sites—are falling into shabby disrepair and will continue to deteriorate unless current budget handcuffs are removed, a group of park superintendents has told Congress.

In testimony before a House Government Operations Subcommittee, four superintendents and the spokesman for a national conservation group all drew a bleak picture of the increasingly seedy condition of most of the nation's parks.

Their portrayals were later affirmed by National Park Service Director Gary Everhardt, who said "a sort of domino effect has set in."

Stingy budgets over the past several years, Everhardt said, have led to a steady decline of park services and facilities.

"Neglect of maintenance leads to rehabilitation," he said, "a lack of rehabilitation leads to reconstruction, so that in the long run the cost is even greater than if we'd attended to the repairs in the first place."

Subcommittee Chairman William S. Moorhead (D-Pa.) said a preliminary investigation by his staff shows that manning levels for park operations have remained essentially the same as they were 10 years ago, despite a doubling in the number of park visitors and the addition of hundreds of thousands of new acres to the park system.

"Personnel ceilings appear to be the root of the problem," Moorhead said. "It has reached the point where existing parks are threatened with deterioration, and new parks are manned—if at all—by only skeleton crews."

In response to the subcommittee's findings and to the testimony of his superintendents, Everhardt said there has been an increase in park service spending over the past decade.

But now additions to the park system, along with "new responsibilities"—such as administration of Job Corps Centers—have diverted money from basic park operations and management.

Some park roads and bridges are approaching "a state of disrepair that if left untended will require total reconstruction," Everhardt said, "and many historical (structures) are in jeopardy of being lost forever."

Among those most in danger, he said, is historic Fort Jefferson in the Dry Tortugas off the Florida Keys. The fort is being slowly consumed by the sea.

The four park superintendents chronicled a long list of deteriorating assets in their parks.

Roads, hiking trails, buildings, campsites, historical structures, patrolling and policing services, wildlife management and protection, and natural wonders all are going to pot, they said.

Meanwhile, vandalism, mindless destruction of plants, animals and natural monuments, they said, continues apace as the ranks of forest rangers are thinned by * * * shrinkage.

William R. Failor, superintendent of the C&O National Historical Park on the Potomac River, said he needs at least 20 rangers to protect park property and ensure public safety, but his tight budget allows him to employ only eight.

In a dramatic plea for congressional help, Boyd Evison, superintendent of the Great Smoky Mountains National Park, said:

"In parks, the medium most assuredly is the message. Rotting historic structures . . . rutted trails and littered roadsides tell the public that America doesn't care enough to husband its most distinctive natural and historic resources.

"Why, then, should the recipients of such messages treat those resources with care? Neglect begets neglect.

"The results are costly. The costs are not only in terms of dollars, or of manpower. Perhaps the most serious costs are in terms of resources irretrievably impaired and of experiences forever lost."

Anthony Wayne Smith, head of the privately supported National Parks and Conservation Association (NCPA), delivered to the subcommittee a detailed inventory of the deteriorated facilities and services in each of the major parks.

The superintendents said later that Smith's survey was "essentially accurate."

Smith, along with Moorhead, blamed the President's Office of Management and Budget (OMB) for the "deliberate neglect" of park needs.

Smith charged that OMB has imposed "unreasonable and unrealistic" budget ceilings on the park service and is causing a "degradation" of the entire park system.

On this score, Everhardt testified that the Cuyahoga Valley National Park and Recreation Area and two other major new parks—Big Cyprus in Florida and Big Thicket in Texas—face prolonged land acquisition delays, followed by delays in program and facilities development, as a result of personnel shortages.

According to Department of Interior and congressional sources, White House budget-makers have ordered virtually all land acquisition for national parks halted for the next fiscal year.

Among new parks that would be affected are the Cuyahoga Valley park, Big Cypress, Big Thicket, and the Sleeping Bear Dunes National Park in Michigan.

The directive from the Office of Management and Budget was issued last month and instructs the Secretary of Interior to spend no money in fiscal 1977 from the multi-million dollar Federal Land and Water Conservation Fund.

Interior Secretary Thomas Kleppe has appealed the directive, sources said.

Everhardt later conceded under questioning that OMB had slashed more than $57 million last year from the park service budget.

Everhardt said most park services and maintenance efforts are now "substandard."

PARK SITE BUYING ORDERED HALTED
(By David Hess)

WASHINGTON.—White House budget-makers have told the Department of Interior to halt virtually all land acquisition for national parks next fiscal year, according to congressional and department sources.

If the order sticks, an Interior official said Friday, land purchases for a dozen new parks and twice as many existing parks "would come to a screeching halt."

Among new parks that would be affected are the Cuyahoga Valley National Recreation Area in Ohio; the Big Cypress National Park in Florida; the Sleeping Bear Dunes National Park in Michigan, and the Big Thicket National Park in Texas.

Interior Secretary Thomas Kleppe, sources said, has appealed the directive, issued last month by the Office of Management and Budget (OMB).

Specifically, the directive instructs the secretary to spend no money from the multi-million dollar Federal Land and Water Conservation Fund in Fiscal 1977, which starts next October.

The fund was established by Congress in 1965 to ensure a steady and reliable source of money to acquire federal recreational lands and to help states plan, acquire and develop state and local recreational lands.

The $300 million fund is fed by revenues generated from Interior Department sales of offshore oil leases and other concessions. Total income from these concessions this year will exceed $7 billion, according to a House Interior Committee spokesman.

Whitney Shoemaker, an OMB official, refused Friday to confirm or deny the directive. He insisted that pending budgetary matters are confidential until the President officially releases his annual budget message.

Rep. Roy Taylor (D–N.C.), chairman of the Interior Subcommittee on National Parks and Recreation, reportedly is preparing a letter of protest on the no-spend order.

Subcommittee aide Cleve Pinnix said Friday that any halt in the "continuity" of land purchases could discourage and disrupt state park acquisition programs.

He also said that acquisition delays now will simply mean higher costs later on.

In the Cuyahoga Valley area, land values are rising from 10 to 15 percent a year, an aide to Rep. John F. Seiberling (D-Ohio) said.

Land acquisition delays, the aide said, could push the price beyond the $34.5 million authorized by Congress.

DON'T STOP BUYING LAND FOR VALLEY PARK AREA

A major obstacle in the way of government economy is the pet project that everyone

seems to have, whether it be development of a new aircraft, expansion of a food program or land acquisition for a new national park.

The Cuyahoga Valley National Recreation Area has been one of our pet projects—so it is our ox that now appears about to be gored by the Office of Management and Budget order to halt land acquisition for parks.

To say that park land acquisition should continue may sound a bit like a childish "mine's-more-important-than-yours" argument. But buying land is in fact significantly different from most government spending.

Land prices in the Cuyahoga Valley are increasing faster than the rate of inflation. An aide to U.S. Rep. John Seiberling (D-Akron) estimates that the rise is from 10 to 15 percent per year.

If the nation is indeed committed to the valley park—and the Congress has said that it is—then delays in land acquisition are false economies. They save money in the short run but assure greater expense in the long run.

Even if the government were to begin acquiring land now and change its mind about the park idea sometime in the future—admittedly unlikely—it would not, or should not, lose any money.

No other federal program or project comes to mind that carries with it the same value guarantee or assurance of higher future price.

If can be argued, we suppose, that construction of a building or development of an aircraft will be cheaper now than in the future. But in those cases it is at least possible that a delay would allow future developments to be incorporated into the projects.

Most federal programs are heavy with operating costs. Delays in such programs result in indisputable dollar savings.

We cannot, of course, argue for land purchases in the Cuyahoga Valley while ignoring other park areas that would be affected by the OMB order. Big Cypress National Park in Florida, Sleeping Bear Dunes National Park in Michigan and Big Thicket National Park in Texas are all in similar situations.

They are similar but not the same. The thing that makes the Cuyahoga Valley park so exciting is that it is located in the middle of a large population area; some six million people live within a reasonable day's drive of the valley.

Until the park service acquires the land, those six million people will continue to apply heavy upward pressure on its value. The cost of land in the other park areas, which are much more sparsely populated, is likely to remain relatively stable.

Those same people have the potential to make the Cuyahoga Valley park the most popular of all national parks. That, too, is something for OMB budget-makers to think about before any final decision is made regarding park land purchases.

RESOLUTION HONORING KEN POMEROY

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, on August 1, I addressed the House on the occasion of the death of Ken Pomeroy, one of the Nation's leading foresters. Throughout most of his lifetime Mr. Pomeroy was active in all phases of forestry improvement. Among his many activities he was the Washington office representative of the National Association of State Foresters. In this capacity, his services were invaluable in obtaining the enactment of sound, needed forestry legislation. I am glad to state, also, that Ken Pomeroy was among my closest personal friends. Our families enjoyed a long and warm relationship.

At the annual national meeting of the State Foresters, this important body adopted a resolution which I feel should be reprinted in the RECORD and I submit that resolution for the information of the membership of the Congress:

RESOLUTION

Whereas, Kenneth B. Pomeroy made substantial and sustained contributions to the practice of forestry in the United States, and

Whereas, he was a zealous proponent of the improved practice of sound forestry principles by private forest landowners, and

Whereas, he was a major instrument in the shaping of the destiny of forestry in his country for so many years, and

Whereas, his entire adult life was devoted to the selfless dedication of his time and talent to the creation and maintenance of a quality environment for all people, and

Whereas, his passing marks the end of an era made notable by his gentle and human compassion for all people exposed to his influence, now therefore,

Be it resolved, that the National Association of State Foresters in national meeting assembled does lament his passing and acknowledges its great debt for his fellowship, counsel and stimulus as an integral part of the Association and be it further resolved that a copy of this resolution be spread upon the minutes of this organization and that this expression of sympathy and indication of esteem be conveyed to his family, and

Be it further resolved, that a copy of this resolution be inserted in the Congressional Record.

MR. KISSINGER, DÉTENTE, AND ANGOLA

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, the situation in Angola now appears bleak for the interests of the Western powers. Russian-backed Popular Front troops are winning militarily. This is due primarily to an ample supply of modern military equipment, including rockets, and the presence of 3,000 Cuban troops whose training provides good support for native forces plus more effective use and maintenance of modern equipment.

Although the other native factions holding territory to the north and south of the Popular Front forces around Luanda have joined their efforts, they are not sufficiently well-equipped and they do not have sufficient help from technicians or mercenaries to offset Russian weapons and Cuban troops.

The U.S. State Department is seeking the involvement of the United Nations to bring peace. This probably is a vain hope. Some pressure apparently is being exerted by Mr. Kissinger and by European nations to try to induce all foreign forces to be removed from Angola and leave the Africans to resolve their own problems. This, also, is not a promising prospect. The Russians are winning and they are not likely to relinquish their gains.

The danger in a Communist takeover is that countries such as Zaire and Zambia have no ports and are dependent upon a railroad which extends through Angola to ship their copper overseas. To the south lies Rhodesia and South Africa. They, as well as Zaire and Zambia, would be subjected to immediate harassment from Communist-trained terrorists seeking to expand Communist control in Africa.

It should be kept in mind by Mr. Kissinger that the only effective trump we have is a refusal to pursue SALT II talks and other negotiations with the Russians as long as they insist on taking over human bodies and territory by whatever means are available anywhere in the world. Détente is a weak reed at best and if it is to be détente in name only insofar as the Russians are concerned, we should not give up American assets or defense to assure its perpetuation.

The United States does not have an appetite for troop involvement in Africa. Nevertheless, if we are disturbed about another Communist takeover, the time to make weapons available, without troops, is due before another big part of the world falls into Communist hands.

COAL COMPANIES' SELFISHNESS DESTROYS LAND AND PEOPLE

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SEIBERLING. Mr. Speaker, the New York Times on December 3 published excerpts from a lecture delivered at Southern Illinois University by Thomas E. Gish, editor and publisher of the Mountain Eagle, Whitesburg, Ky. Mr. Gish is one of the most knowledgeable and sensitive observers of the human and environmental tragedy known as "Appalachia."

Mr. Gish points out that the coal mining community is a closed society. Part of what is usually a one-industry and even a one-company community, the miner is not only tied economically to the coal company but traditionally has had no independent sources for information. Mr. Gish notes that over the years the coal companies have gotten across the message that they cannot afford safety measures that would protect the lives of miners, cannot afford to pay taxes that would support adequate schools, cannot afford public health programs, cannot afford to obey truck weight laws to prevent the destruction of the roads, cannot afford workmen's compensation, cannot afford to build decent housing for the miners' families, and cannot afford the cost of strip mining reclamation. He summarizes the coal company "line" this way:

No matter how serious the problem, no matter how great the mine disaster, no matter how many miners' lives are snuffed out, no matter how many children are orphaned, no matter how poor the schools, how inadequate the health care, the coal industry can't afford to do any better. Even the slightest tax would make the entire industry collapse. Any kind of mine safety will drive coal off the market.

As we all know, the end result has been that the Central Appalachian area is one of the leading poverty centers in the entire country. Incomes average less than

one-half the national average. The education system is the worst in the Nation. More than a third of the housing is substandard. The creeks and hollows are filled with maimed and broken people. The hillsides are being gutted by strip mines, and the creeks are filling with rock and mud.

Mr. Gish concludes:

If there is any place in the United States that is a total mess, it is the Appalachian coal fields.

Mr. Speaker, the arguments of the coal companies are by now only too familiar to Members of Congress. We have heard them whenever we have tried to pass effective black lung legislation. We have heard them when we tried to pass effective coal mine safety legislation. We have heard them when we tried to pass effective strip mine control and reclamation legislation. In every case, the Congress has ultimately responded with appropriate remedial legislation. Unfortunately, in the case of strip mine legislation, the President of the United States is apparently so remote from the human realities and so ignorant of the economic and environmental facts that he has twice in the last 12 months vetoed moderate, carefully worked out strip mine control legislation that had been overwhelmingly passed in both Houses.

Since the beginning of the "energy crisis" the coal companies—many of whom are already owned by oil companies—have joined the oil company chorus endlessly chanting their opposition to every form of Federal regulation on the ground that it will curtail the Nation's energy production or raise prices of energy to the consumer. By now, this line should be wearing a little thin.

The fact is that the profits of the coal companies are now so astronomical that the relatively small additional cost of stripmining controls will have virtually no effect on coal production or coal prices. The fact is that coal prices are being set today, not by the cost of mining coal but by market forces, principally the tremendous increase in the price of oil, coal's principal competing energy sources.

Last Monday, the Arkon Beacon Journal, in an article about Occidental Petroleum Co., stated that one of Occidental's most profitable ventures was its ownership of Island Creek Coal Co. The article noted:

Island Creek, the nation's third largest coal company, benefited dramatically from the rising demand for coal that parelleled the upsurge in oil prices. Island Creek's profit margin on coal jumped from 11 cents a ton in 1972 to $10.02 per ton in the first nine months of this year, according to company figures.

During the very time when Island Creek and other coal companies were experiencing these fantastic increases in coal earnings, their representatives were lobbying Members of Congress, including this Member, "poormouthing" that they could not afford the cost of a stripmining bill that would add an average of about $1 a ton to the cost of mining coal. Yet if the bill had been in effect during the first 9 months of this year, it would have reduced Island Creek's profit margin from $10 a ton to about $9 a ton, so that instead of experiencing a 9,000-percent increase in its profit margin in the last 3 years, Island Creek would have experienced "merely" an 8,200-percent increase.

Mr. Speaker, we will soon have before us a bill reported out of the Interior Committee to facilitate leasing of the huge deposits of coal located on Federal land in our Western States. The Interior Committee is also considering legislation to enable coal slurry pipelines to be built to facilitate the transportation of western coal to electric generating plants in the South and the Midwest. Arguments have been made that these measures are essential in order to develop the Nation's coal resources to meet our energy needs and lessen our dependence on oil. This may well be correct. But these two legislative steps must not be taken unless they are part of a triangular legislative package, with the third "leg" being a strip mining law strong enough to guarantee that the West will not be ravaged as Appalachia has been and that some of the enormous profits which will be generated by the mining of coal on Federal lands will be earmarked for the benefit and protection of the people in the coal mine areas.

I refuse to believe that we in this Congress, knowing the facts, will not do everything in our power to insure that the shamful treatment of the land and people of Appalachia will not be repeated in the new coal fields of our Western States. Speaking for myself, I will not cast a final vote for either the coal leasing or the coal slurry pipeline legs of the triangle unless I am assured that the third leg—effective national stripmining standards—will also be enacted in this Congress. I know that other Members share my position on this matter.

The proposed regulations recently promulgated by the Secretary of the Interior with respect to stripmining standards for coal on Federal land do not meet the problem, for three basic reasons:

First, the standards are too weak and fall far short of those repeatedly enacted by the Congress;

Second, they would apply only to Federal lands, creating an impossible administrative situation in Western States, where many of the Federal coal lands are "checkerboarded" with private lands, on which very different State stripmining laws are applicable; and

Third, until there are national stripmining control and reclamation standards which every State must meet as a minimum, the States that desire to enact and enforce strong stripmining control laws will be thwarted, as they are now, because of the fact that coal mined in their States is in competition with coal mines in States that have weak or nonexistent laws.

In the next session, Members will have another opportunity to vote on a strip mine bill. If, as experience would indicate, such a bill is passed and sent to the President again, we may hope that he will be more sensitive in his treatment of this major human and environmental issue than in the past. But if the coal company arguments should again persuade him to veto the bill, then I would hope that the few additional Members needed to override the veto will by then be sufficiently aware of the facts to insure that this essential legislation will be adopted.

Mr. Gish's article follows these remarks:

IN APPALACHIA, HUMAN FUEL
(By Thomas E. Gish)

CARBONDALE, ILL.—For a variety of reasons the coal mining community is a closed society. The working miner more or less eats and sleeps coal 24 hours a day. His friends are other coal miners, usually the same men he sees during his shift at work. His own well-being is tied to the well-being of the coal industry generally, and more specifically to the coal company he works for.

The miner has a vital stake in day-to-day developments that affect coal. The Mideast oil situation, the ups and downs of the steel industry, the demand for electricity—*all* these and many other factors have a direct bearing on whether the miner works three days or one day or five days a week. Traditionally, the miner has had no independent sources of information about political or economic trends that might affect the coal industry. His one information source has been the coal company he works for.

And over the years, the coal company has gotten across the message that it cannot afford to pay property taxes because a tax rate any where like that paid by other industries would drive the price of coal so high it would have to go out of business. The company has told its workers that it couldn't afford decent safety measures, that state and Federal mine health and safety and welfare legislation all are unnecessary, and would force up the price of coal.

The coal industry can't afford safety measures that would protect the lives of miners. It can't afford to pay the taxes that would support a halfway adequate public school system. It can't afford to support public health programs that would provide enough hospitals, enough doctors. It can't afford to obey truck weight laws that would prevent the destruction of every road in the area. The coal industry can't afford the costs of strip-mine reclamation. It can't afford to pay workmen's compensation for miners who are forced into early retirement by black-lung disease. It can't afford to build housing for miners and their families.

No matter how serious the problem, no matter how great the mine disaster, no matter how many miners' lives are snuffed out, no matter how many children are orphaned, no matter how poor the schools, how inadequate the health care, the coal industry can't afford to do any better. Even the slightest tax would make the entire industry collapse. Any kind of mine safety will drive coal off the market.

This has been the message the coal industry has preached for the past century. The only thing the coal industry has been able to afford is politicians. And the coal operators long ago learned how to buy out the courthouses. The result has been that perhaps the rarest critter on the face of the earth is the coal field public official who will stand up to a coal company. Where is the county official who will enforce truck weight laws or propose a tax to support public education?

Whenever anyone challenges any of the coal company mythology about what the company can or can't afford, the public officials are quick to echo the company line and to assure anyone who asks that the overweight coal trucks must be permitted to run or else the whole industry will have to close down and everybody will be jobless tomorrow. No genuine discussion or debate is tolerated.

So it is little wonder if the coal miner and his family, and the people of the coal fields generally, come to believe and to support the coal company myths. It becomes accepted gospel that any coal industry reform is totally outside the realm of feasibility. Anyone who discusses the problems or hints that change might be in order becomes instantly recognized as a heretic, a radical, a fool, a traitor, a Communist, someone who must be hushed.

These were the attitudes and conditions that faced the miner who wanted change and who supported unionization of the coal fields a half century ago. These were the attitudes that jailed Theodore Dreiser and many other outside visitors—some writers, some radicals, some organizers—when they came to the coal fields in the 1930's and reacted to what they saw in places like Harlan County.

And these are still the attitudes that dominate in the region today. Harlan County miners who work for Doris Duke at her Brookside mines have been living all these years in unheated coal company shacks throughout the 1960's and 1970's and yet were fearful to join a union. Much of the Eastern Kentucky-Eastern Tennessee-Western Virginia coal field remains nonunion, largely because working miners themselves have been intimidated over and over and over.

The end result has been that the Central Appalachian area where I am from is one of the leading poverty centers in the entire country. Incomes average less than half the national average. The education system is the worst in the nation. More than a third of the housing is classified as substandard. The creeks and hollows are filled with maimed and broken people. The hillsides are being gutted by strip mines, and the creeks are filling with rock and mud. If there is any place in the United States that is a total mess, it is the Appalachian coal fields.

CANCER FROM OUR DRINKING WATER?

(Mr. DELANEY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DELANEY. Mr. Speaker, my office has received numerous inquiries concerning the possible health hazard associated with the artificial fluoridation of our drinking water. You will recall that back on July 21, on pages 23730–23733, I recommended the immediate suspension of all artificial fluoridation pending further research into its carcinogenicity.

The shoddy handling of this entire matter by the National Cancer Institute is presently before two subcommittees of the House of Representatives and both Chairman FLOOD and Chairman FOUNTAIN have promised a full investigation into the agency's conduct.

In addition, I wish to call my colleagues' attention to the following letter from the scientists whose report I presented in July.

The time is long past for "statistical ping-pong." In the interest of the American people, I demand that all artificial fluoridation of our water supplies be suspended immediately.

The letter follows:

DECEMBER 11, 1975.

Hon. JAMES J. DELANEY,
Rayburn House Office Building,
Washington, D.C.

DEAR CONGRESSMAN DELANEY: This letter is in response to your request to us for brief summaries of:

(1) Our most recent studies on fluoridation-linked human cancer deaths based on year-by-year time trend data on cancer mortality in large American cities. These studies independently confirm and extend our earlier conclusion (Cong. Record, July 21, 1975, pp. H 7172–76) that some 25,000 or more excess cancer deaths per year occur in U.S. communities subjected to imposed public water fluoridation.

(2) Our comments on the report, "Fluoridated Drinking Water and the Occurrence of Cancer," 35 typewritten pages, dated November 14, 1975, and signed by Robert N. Hoover, M.D., Frank McKay, and Joseph F. Fraumeni, Jr., M.D., Epidemiology Branch, National Cancer Institute, and forwarded to you by Dr. James A. Peters, Director, Division of Cancer Cause and Prevention, NCI. This "November NCI Report" continues to confirm and extend earlier NCI Reports (March 5, 1975; April, 1975), all concluding that there are no upward cancer mortality trends attributable to consumption of fluoridated water.

The reasons for the foregoing wide discrepancy of conclusion are not far to seek, as will be detailed in this Letter. In brief, the November NCI Report conclusion could not have been reached had this report paid responsive and responsible attention to our July 21, 1975 Congressional Record report and to our new year-by-year time trend data submitted to NCI officials *early in September* and which the NCI chose to disregard—to look the other way—as partly indicated by the NCI Report statement (p. 16) that "It is beyond the scope of this (November) report to reconcile our negative findings with the positive report in the Congressional Record that also utilized U.S. cancer mortality statistics." Such a disregard is surely unscientific and methodically reprehensible. In your own words, Mr. Delaney, "This conduct can only indicate either outright incompetence or a sinister manipulation of official public information," by a "bureaucracy that insists on playing games while the health of our American people is placed in possible danger" (your November 17, 1975 letter to Chairman Daniel J. Flood, House Appropriations Committee, Subcommittee on Health, Education, and Welfare).

(1) NEW STUDIES: YEAR-BY-YEAR CANCER MORTALITY TRENDS LINKED TO ARTIFICIAL WATER FLUORIDATION

Data on *year-by-year* cancer mortality trends have been taken from "Vital Statistics of the United States," as published annually by the National Center for Health Statistics for the years 1944–1969 with respect to *central cities*. In this study we use data for central cities in preference to data for counties, because the cities we have used are basically either 100% fluoridated or not fluoridated at all (0%), and the fluoridation of any given city was set up in some one particular year during 1952–1956 and continued uninterruptedly thereafter (with the single exception of Pittsburgh: 90% fluoridated 12/52–1/53, the remaining 10% in 1958). Considerably less definitive fluoridation data are available for counties. Most counties are served by several different water systems, some fluoridated and some not fluoridated, and the fluoridated parts of a county may have been fluoridated at widely different times over periods of years.

The ten fluoridated central cities we report year-by-year time trend data on in this letter are the same as those reported on in the "static" Type I Comparison cited in our earlier Congressional Record report, and are the ten largest American cities whose fluoridation was set up for each city in some one of the years 1952–1956. In 1960 (U.S. Census) the combined population of these ten cities was 11,500,000 persons. The ten cities fluoridated, and their dates of starting fluoridation, are, in order of decreasing population: Chicago (8-1956), Philadelphia (7-1954), Baltimore (11–1952), Cleveland (7–1956), Washington, D.C. (6-1952), St. Louis (9-1955). San Francisco (8-1952), Milwaukee (7-1952), Pittsburgh (12-1952), and Buffalo (6-1955), with respective populations, in thousands, of 3,550, 2,002, 939, 876, 764, 750, 743, 741, 604, and 533.

The ten nonfluoridated cities studies were the ten largest American central cities nonfluoridated before 1970 (except Seattle, 12-1969), and whose cancer death rates in 1953 were over 155 deaths/years/100,000 population: Los Angeles, Boston, New Orleans, Seattle, Cincinnati, Atlanta, Kansas City (Mo.), Columbus (O.), Newark (N.J.), and Portland (Ore.), with respective 1960 populations, in thousands, of 2,479, 697, 627, 503, 498, 475, 472, 471 405 and 373 with a combined population of 7,000,000 persons.

The four last-named cities replace Houston, San Antonio, San Diego, and Memphis used in our earlier static Type I Comparison (Congressional Record report), so that the ten nonfluoridated cities now reported on have average, annual, age-unadjusted cancer death rates virtually identical to the ten fluoridated cities during the *pre*fluoridation period (1944–1950) (data for the years 1951–1952 are not available in "Vital Statistics of the United States). In this way, the sum of *all* factors, whatever their number and kind industrial, urbanizational, socioeconomic, migrational, or more specific ones such as age, sex, race, number of years of schooling, diet (e.g., consumption of meat, cereal, alcohol), smoking of cigarettes or marijuana, hard vs. soft water, sunlight, etc., *ad infinitum*) leading to cancer mortality is now matched in both nonfluoridated and prefluoridated groups for initial cancer death rate and also for prefluoridation trends in cancer death rate increase. The revised list of ten nonfluoridated cities leads, incidentally, to an improved geographic and demographic similarity with the ten fluoridated cities.

Hence, upon commencement of fluoridation, 1952–1956, of ten of the foregoing twenty cities, any increases in average death rate compared to those in the nonfluoridated group, on a year-by-year basis, for the next five, ten, or even more years, can be linked with high certainty to the one new factor introduced, namely fluoridation, especially in view of the very large populations involved, of the order of 10,000,000 persons per group. This follows both from the long-established principle of William of Occam (1400 A.D.) and from "Schneiderman's rule" to the effect that if such "comparisons change upward (in the fluoridated group) this would lend support to your hypothesis of fluoridation being (almost immediately) carcinogenic" (letter of Sept. 10, 1975 from Dr. M. A. Schneiderman to Dean Burk).

Actually, in the present study, we are not dealing with a hypothesis or postulate but a statement of reported facts. As Isaac Newton pointed out many times during his life, hypotheses should follow not precede, informational facts, and this is the course of procedure we have chosen to follow. Our linkage of fluoridation with cancer mortality arose historically in this manner, and was derived from the available data, not from *a priori* hypotheses or postulates, or, in plainer language, from any form of "wishful thinking." Our results came to us as a surprise, with zero prior bias, but now that they have come we have, as scientists, acquired a considerable bias, just as Newton eventually did with respect to his inverse square law of gravitation. Bias based on fact is quite different from bias based on anything else, such as prior commitments, organizational networks, industrial values.

The average, annual, age-unadjusted cancer death rates, per 100,000 population, for the two groups of ten cities each during the prefluoridation period were (date—prefluoridation group, nonfluoridated group): 1944—162, 162; 1945—168, 165; 1946—171, 168; 1947—173, 174; 1948—173, 178; 1949—179,

179; and 1950—180, 178. For the years 1944–1950, prior to any artificial fluoridation at all, the data are virtually identical for both groups. Unfortunately, cancer mortality data for cities for 1951 and 1952 were not reported in "Vital Statistics of the U.S."

After fluoridation, the cancer death rates of the fluoridated and nonfluoridated groups were: 1953—191, 189; 1954—194, 185; 1955—196, 190; 1956—204, 189; 1957—207, 189; 1958—204, 189; 1959—205, 193; 1960—207, 191; 1961—209, 190; 1962—207, 190; 1963—211, 189; 1964—213, 190; 1965—219, 194; 1966—225, 193; 1967—224, 199; 1968—227, 199; and 1969—221, 199, respectively.

During 1953–1969, the total cancer death rate increased in the nonfluoridated group to a value of about 195–200 cancer deaths/year/100,000 population. During the same period, 1953–1969, however, the cancer death rate of the group that started fluoridation in 1952–1956 increased to a value of about 220–230 cancer deaths/year/100,000 population, amounting to an excess rate of 20–35 cancer deaths/year/100,000 population, 10–18% greater than the nonfluoridated total rate of 195–200. For the fluoridated population this comes to (20 to 35) X 115=2500–4000 observed excess deaths, which calculated by an extrapolation method based on fluoridation data in Table 3 of the "Flouridation Census 1969" (U.S. Government Printing Office: 1970 0–380–791, issued by DHEW), and applied to the currently fluoridated population in the United States of 93,000,000 persons (American Dental Association figure) would implicate some 20,000 to 30,000 excess deaths/year/93,000,000 persons currently subjected to imposed, artificial water fluoridation. This indicated range of excess deaths unquestionably represents minimum values, in view of mixing or dilution factors such as population migration, local commuting between fluoridated and nonfluoridated areas, transfers of foods and drinks between fluoridated and nonfluoridated areas, etc., all of which would very considerably tend to reduce or hide the proper values, so that, *in our judgment*, the likelihood is a number of 30,000 or more excess cancer deaths per year linked with artificial fluoridation in the United States in 1975, for something *less than half* the current American population of 215,000,000 persons.

An annual total cancer mortality of 30,000/year linked to artificial fluoridation is of the general order of magnitude as those of each of the two leading cancer death sites, namely, breast cancer and lung cancer, but in these two instances for the *whole* of the American population. Each one of these three leading modes of cancer death amounts to the order of about one-tenth of the total annual cancer deaths in the United States (*ca.* 350,000/year), and all three together hence to about one-third of the total annual American cancer deaths. Were *all* of the American population subjected to imposed water fluoridation, cancer deaths linked thereto might then become twice as great as each of the two leading site types of cancer death (breast and lung), and equal to the sum of them! This is surely something for promoters of fluoridation to think about, whether the NCI does or not.

Short latency period for development of fluoridation-linked cancer

It is commonly believed or stated that chemically induced cancers usually have a long latent period for development—even twenty to fifty years (as notably with cigarette smoking, radiation, etc.). Nevertheless, Nobel Prize winner Charles B. Huggins and his group have shown with rats that a single feeding of a polynuclear hydrocarbon (e.g., 7,12-dimethylbenz(a)(anthracene) can induce breast cancer in less than a month. Biologically equivalent results have also been reported for fluoride (I. H. Herskowitz and I. L. Norton, *Genetics*, *48*:307–10 (1963), and A. Taylor and N.C. Taylor, *Proc. Soc. Exptl. Biol. Med.*, 119:252–5 (1965)). One of most interesting time-trend observations has been that in the case of fluoridation the increased (excess) cancer mortality rates in humans can be observed with statistical certainty within five years, even one or two years in instances.

Other year-by-year trend comparisons

We have made many other year-by-year time-trend comparisons with other groupings of fluoridated and nonfluoridated cities, and also on single cities before and after fluoridation, with observation of similar early and prompt linkage of fluoridation with excess cancer deaths. For example, with San Francisco, first fluoridated in 1952, and with a prefluoridation base line rate increase of zero or slightly negative for six to eight years before 1952, there was an increase of 3% after two years, 6% afer four years, 12% after six years, and 20% after twelve years. By contrast, nearby, nonfluoridated Oakland showed an increase of only 3% during the same total time period; and the West Coast city Los Angeles, also nonfluoridated, maintained a virtually unchanged cancer death rate, without notable increase or decrease, for the whole period 1944–1972. Washington, D.C., fluoridated since 1952, showed results similar to those of San Francisco, both when compared against itself, and when compared with another southern city, nonfluoridated Atlanta. Likewise, but along the upper northeast coast, Providence, R.I., also fluoridated in 1952, showed increases in cancer death rate of 3% in two years, 6% in four years, 15% in ten years, and 25% in sixteen years (1968); whereas nonfluoridated Boston showed respective increases of but 1%, 2%, 4%, and 6%. St. Louis, first fluoridated in 1955, showed slightly smaller increases than did Providence (15% by 1968), as compared to very much smaller increases reported for nonfluoridated Kansas City (Mo.) (4% by 1968). New York central city, first fluoridated in 1965, showed a relative increase when compared to a negative base line provided by adjacent nonfluoridated New Jersey metropolitan areas. Other major central cities showing *five*-year postfluoridation excess cancer death rate increases over *five*-year prefluoridation periods were (city-before, after): Chicago—188, 196; Philadelphia—187, 205; Baltimore—171, 195; Cleveland—188, 199; St. Louis—201, 223; Milwaukee—176, 187; Pittsburgh—177, 209; Buffalo—193, 202. All these and other year-by-year, or five-year before and after, time trend studies for central cities 100% fluoridated (not counties usually less than 100% fluoridated, as in the November NCI Report), have been or will be reported in more detail elsewhere.

Regrettably, the "Vital Statistics of the United States" volumes did not begin to report on specific organ sites (digestive, respiratory, and other) until 1953. Trend data regarding death rates in specific sites, while unavailable in the detail and during the years required, indicate less of a tissue specificity than that previously reported in our Congressional Record letter. In any event, the aspect of cancer site, with respect to evocation of the Delaney Amendment, is here quite secondary to the matter of actual total excess cancer deaths involved. The aspect of cancer site is historically important because it led to the discovery of fluoride-linked human cancer deaths.

(II) COMMENTS ON THE NOVEMBER NCI REPORT, "FLUORIDATED DRINKING WATER AND THE OCCURRENCE OF CANCER"

The November NCI Report has little or no direct or indirect bearing on our data and conclusions indicating that some 25,000 or more excess cancer deaths per year in the United States are linked with imposed public water fluoridation ("artificial fluoridation"). The statement on p. 16 of the NCI report, to the effect that it was beyond the scope of that Report to reconcile its negative findings with our positive findings, is all the more remarkable in view of the fact that the NCI report, and two earlier NCI reports, owe their existence and origin to the appearance of our positive findings, without which it is a virtual certainty that the various NCI reports would never have appeared. This view is confirmed by the statement of Dr. Donald S. Fredrickson, Director, NCI in his letter of Dec. 4, 1975 to Chairman Daniel J. Flood, "It is important to note that Dr. Hoover's comments and the statements issued at that time by the Public Health Service were in response to the (National Health) Federation's announcement." Earlier in This Letter we have indicated that the various NCI "responses" have, in our opinion, been neither responsive nor responsible, as follows.

The November NCI Report diverts a great deal of its attention to two aspects, "*natural* fluoridation" and cancer *incidence* (not mortality) that our work has deliberately avoided because (1) we felt that the available data were still relatively incomplete, ill-defined, and inaccurate compared to the available data on artificial (imposed) fluoridation and on cancer mortality, (2) artificial fluoridation involves ten times as many Americans as does natural fluoridation (American Dental Association estimate), and (3) as stated in our Congressional Record letter of July 21, "we have not been interested at present in making an exhaustive analysis of all possible aspects of fluoridation-linked cancer mortality, but rather in examining for any quantitatively and statistically significant fluoridation-linked human cancer" of direct and positive bearing "on the evocation of the Delaney Amendment.

Much more important, however, is the fact that the November NCI Report does not address itself directly to any significant fraction of our positive data dealing specifically with:

(1) Absolute cancer mortality rates and rates of mortality increase;
(2) Numerical population values;
(3) Cities;
(4) 100% fluoridated areas in comparison to 0% fluoridated areas;
(5) Year-by-year time trends (extending some 25 years);
(6) Total populations (white and nonwhite, male and female);
(7) Carefully defined initial year of fluoridation;
(8) Population size consistency (low ratio of largest/smallest populations);
(9) Carefully defined criteria for basis of sample selection; and
(10) Surprisingly short latency time periods for development of fluoridation-linked human cancer deaths.

On the contrary, the November NCI Report makes a point of failing to employ these indicators and parameters, many of them crucial for observation of positive fluoridation-linked cancer. This deliberate and stated avoidance of critical data is not science but something else. Instead, the NCI Report "looks the other way," or into the sand, in a manner that is surely scientifically reprehensible:

The NCI Report deals with counties only, where the percentage of fluoridation is seldom better defined than as "over 67," in contrast to our cities where fluoridation can be defined as 100%. On the other hand, the areas it terms as "nonfluoridated" are not 0% fluoridated but someplace between 0 and 100%. Thus, as may be seen from NCI Report Appendix Table 2, more than half (22 out of 37) of the so-called *control* (nonfluoridated) counties from Texas, and used in the artificial fluoridation study, contained as much or more fluoride (0.7 to 2+ ppm fluoride) in the drinking water as did the "fluoridated" counties. Such counties in Table 1 are Andrews, Brewster, Dallam, Jim Hogg, and

Ochiltree (high level group); Ector, Garza, Hutchinson, Reagan, and Reeves (intermediate level group); and Brooks, Cameron, Crockett, El Paso, Galveston, Gray, Hidalgo, Howard, Lubbock, Maverick, Webb, and Winkler (low level group). To what extent the same is true of the many non-Texas counties listed is not ascertainable from any data in the NCI Report.

The NCI Report is based largely upon relative mortality values expressed as rather obscure ratios without specification of the numerator and denominator components that could be subject to independent confirmation. These ratios appear to consist of unpublished or otherwise uncertain cancer death rates divided by values based on what the Report estimates the cancer death rates of the areas involved should be. At the same time, the criteria used for sample selection are but vaguley defined, if at all. The population ratio of largest area/smallest area, or the "population consistency" of the sample, varies among chosen counties by some 1,000-fold (5,000 to 5,000,000), in contrast to our spread of no more than 10-fold (350,000 to 3,500,000).

The Report's time trend studies are based on a limited number of five-year intervals (pentads) during which the year of initial fluoridation is not given or accurately defineable because of wide variation within a county that would be too complicated to report in detail. As we have already indicated, much more accurate one-year intervals are available in the "Vital Statistics of the United States." The reason for their exclusion from the NCI Report is only partly clarified by a statement made by Dr. Hoover to Dr. Yiamouyiannis on July 30, 1975, "You do have available to you secular term information better than we have. I give you five-year periods because it is very difficult for me to go to the individual years the way in which the system we have is designed." The two undersigned found no great difficulty in obtaining and using year-by-year data without "system restriction," but we do have difficulty in understanding why the much-larger-staffed NCI should have, if such information is critical and superior ("better").

We have at hand many other adverse comments on and scientific criticisms of the November NCI Report, but these can perhaps best be reserved for the Congressional hearings on the matter predicated by Chairman Flood and Chairman Fountain to you in in reply to your letters to them of Novemtheir respective letters of Dec. 2 and 5, 1975 ber 17 and 19, 1975. One matter, however, deserves comment at this time. Among a number of demonstrably unfounded conclusions drawn in the NCI Report refers to "reduced mortality from cancers of the brain and nervous system in systems with high levels of natural fluoride. The data used to support this proposal is, in fact, based on a total difference of only *one* brain or nerve cancer death over the course of two years, as set forth on p. 3 of Table 1 of the Report Appendix. This suggestion would appear to perhaps be the most substantial of NCI efforts to implicate fluoride as a means of preventing cancer rather than of inducing cancer. In any event this proposal received great attention in the press over the nation when the NCI released the November NCI Report, even front-page headlining, at the expense of other aspects of the Report. How many times has the NCI castigated others for giving false hopes to the public! And how many times has the NCI referred to "fluoridation scare" when the facts of the matter were much more to the point and better faced than run away from, regardless of prior commitment, institutionalism, or industrial discomfort.

Mr. Delaney, we agree with the statement in your letter to Chairman Flood, that the claim of the November NCI Report that it is a "definitive" study "is nothing short of brazen, coming from an official Government agency." It would appear that the devious path adopted in this Report arises from the fact that the NCI has not been able to demonstrate any profound, scientific errors in our work or conclusion. Part I of this letter should place any such project—in our opinion—beyond hope.

Sincerely,

Dr. JOHN YIAMOUYIANNIS, Ph. D.,
Science Director, National Health Federation, Monrovia, Calif.
Dr. DEAN BURK, Ph. D.,
Retired, U.S. National Cancer Institute (1939–1974); Dean Burk Foundation, Inc., Washington, D.C.

(A graphic presentation of this latest research, drawn up in consultation with Dr. W. Edwards Demming, an internationally known and respected statistician, is available upon request from my office.)

EXPLANATION AND ANALYSIS OF WAYS AND MEANS COMMITTEE AMENDMENT TO H.R. 9771, ALONG WITH MINORITY AND SUPPLEMENTAL VIEWS

Mr. ULLMAN. Mr. Speaker, under the unanimous consent I have been granted, I include in the RECORD at an appropriate place a document which explains the proposed Ways and Means Committee amendment to H.R. 9771 which would add a new title III to that bill, which document also contains minority and/or individual views with regard to the proposed amendment. Although the printer's cost estimate for including this in the RECORD at this point is $1,144, this document relates to important legislative business which will be before this House this week and it is not only necessary but also in the public interest that Members of the House be advised as to the views expressed in the document in explanation of the Ways and Means amendment as well as those views which are opposed to it. The document follows:

EXPLANATION OF WAYS AND MEANS COMMITTEE AMENDMENT TO THE AIRPORT AND AIRWAY TRUST FUND, TO BE OFFERED AS A TITLE III TO H.R. 9771 (AIRPORT AND AIRWAY DEVELOPMENT ACT AMENDMENTS OF 1975)

(Prepared by the Committee on Ways and Means of the U.S. House of Representatives)

TOGETHER WITH ADDITIONAL AND SUPPLEMENTAL VIEWS

EXPLANATION OF WAYS AND MEANS COMMITTEE AMENDMENTS TO THE AIRPORT AND AIRWAY TRUST FUND, TO BE OFFERED AS A TITLE III TO H.R. 9771 (AIRPORT AND AIRWAY DEVELOPMENT ACT AMENDMENTS OF 1975)

The Ways and Means Committee has reexamined the provisions of the Airport and Airway Trust Fund (sec. 208 of the Airport and Airway Revenue Act of 1970) as they relate to H.R. 9771 (the Airport and Airway Development Act Amendments of 1975).

As a result of that reexamination, the Ways and Means Committee has directed the Chairman of the committee to offer an amendment to H.R. 9771 to add a Title III to that bill, to provide amendments to the Airport and Airway Trust Fund provisions of present law.

The text of the proposed committee amendment is set out immediately below. This is followed by the committee's explanation of, and reasons for favoring the adoption of the amendment, in essentially the same form as a committee report.

AMENDMENT TO H.R. 9771, AS REPORTED FROM THE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

Page 49, after line 9, insert the following new title:

"TITLE III—AIRPORT AND AIRWAY TRUST FUND

SEC. 301. AUTHORIZATION FOR EXPENDITURES FROM TRUST FUND.

"(a) Amendment of 1970 Act.—Subparagraph (A) of section 208(f)(1) of the Airport and Airway Revenue Act of 1970 (49 U.S.C. 1742(f)(1)(A)) is amended to read as follows:

"'(A) incurred under title I of this Act or of the Airport and Airway Development Act Amendments of 1975 (as such Acts were in effect on the date of the enactment of the Airport and Airway Development Act Amendments of 1975);'.

"(b) Amounts Not To Be Used for Terminal Development.—Section 208 (f)(1) of such Act is amended by adding at the end thereof the following new sentence:

'Nothing in this paragraph shall be deemed to authorize the making available of amounts to meet obligations incurred for terminal development other than terminal development authorized by subparagraph (A) as in effect on the day before the date of the enactment of this sentence.'

"(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to obligations incurred on or after the date of the enactment of this Act."

EXPLANATION OF TITLE III, RELATING TO THE EXPANSION OF PURPOSES FOR WHICH AIRPORT AND AIRWAY TRUST FUNDS MAY BE SPENT

I. Summary

The proposed title III expands the purposes for which funds may be spent from the Airport and Airway Trust Fund. By making available trust fund moneys to meet obligations incurred under titles I and II of the Airport and Airway Development Act Amendments of 1975 (H.R. 9771), it permits expenditures to be made for servicing airway facilities, developing State construction standards for general aviation airports, international security charges, a plan for a national airport system, snow removal equipment, noise suppression equipment, construction of physical barriers for noise control, and acquisition of land for noise control.

II. General Statement

A. Present Law

The Airport and Airway Revenue Act of 1970 imposed a series of user taxes,[1] created the Airport and Airway Trust Fund, provided that the user taxes (together with certain other taxes already being imposed [2] and various additional sums) are to be covered into the Trust Fund, and made Trust Fund moneys available to meet specified obligations of the United States.

In the case of airports, the 1970 Act provided that Trust Fund monies are to be

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[1] The following taxes were imposed or increased by the 1970 Act; gasoline and other fuels used in noncommercial aviation (sec. 4041 of the Internal Revenue Code of 1954), tax on transportation of persons by air ("ticket tax", sec. 4261), tax on transportation of property by air ("waybill tax", sec. 4271), and tax on use of aircraft (sec. 4491). See Appendix B for revenues from these taxes.

[2] The then existing taxes which the 1970 Act earmarked for the Trust Fund included the following: tax on tires and tubes of the type used on aircraft (sec. 4071), 2 cents of the 4 cents manufacturers tax on gasoline (sec. 4081), and that portion of the ticket tax that was already in existence and was up to that time covered into the general fund of the Treasury (sec. 4261). See Appendix B for revenues from these taxes.

available to meet obligations incurred under Title I of that Act (the "Airport and Airway Development Act of 1970"), as in effect on the date of the enactment of that Act. As a result, subsequent expansion of the Title I Trust Fund provisions, would not be sufficient to authorize the making available of Trust Fund moneys for the additional purposes, unless corresponding amendments were made to the Title II Trust Fund language. Among the "airport development" costs not allowed to be met out of the Trust Fund are those for public parking facilities for passenger automobiles and those for the cost of construction, alteration, or repair of a hanger or of any part of an airport building. (Sec. 20(b) of the 1970 Act.) A special exception in that Act permitted the use of Trust Fund monies for "those buildings intended to house facilities or activites directly related to the safety of persons at the airport."

The 1970 Act authorized expenditures for "the maintenance and operation of air navigation facilities" (Sec. 14(d) of the 1970 Act). In 1971, the Congress amended the Act to remove that authorization for maintenance and operation of air navigation facilities; however, the Trust Fund language was not amended. As a result, after 1971 the Act as a whole no longer authorized Trust Fund expenditures for obligations incurred for the maintenance and operation of air navigation facilities.

B. Reasons for the provision

H.R. 9771, as reported by the Committee on Public Works and Transportation, would modify the provisions of Title I of the 1970 Act to permit the Federal Government to incur certain obligations that are not permitted under present law. As your committee made clear in its report on the 1970 Act (H. Rept. 91–601, p. 50), the 1970 Act was so drafted as to assure that any additions to the categories of obligations funded out of Trust Fund revenues would be subject to scrutiny by those committees of Congress concerned with raising those Trust Fund revenues.

In conducting this examination, your committee has divided the additional obligation categories into three types. The first of these categories relates to expenditures for (1) developing State construction standards for general aviation airports ($1.275 million for 1976), (2) international security charges ($3 million per year for 1976, 1977, and 1978, and $0.75 million for the transition quarter of October–December 1976), (3) a national airport system plan ($2 million for 1976), and (4) snow removal equipment, noise suppression equipment, construction of physical barriers for noise control, and acquisition of land for noise control (expected to average $20–$25 million per year for the remaining period of the Trust Fund). As to these items which do not add major expenditure categories to the Trust Fund, your committee concluded that it was appropriate to provide financing out of the Trust Fund revenues.

The second category deals with the servicing of airway facilities, which includes (1) servicing of navigation aids, landing systems, towers, and radars (excluding cost of engineering support and planning, direction and evaluation); (2) airway facility leased communications; and (3) supplies and parts related to facility maintenance. The amount authorized is initially set at $50 million for 1976 and is to increase by $25 million a year for each subsequent year (in addition, $12 million is authorized for the transition quarter). It appears to your committee that these expenditures could have been financed from the Trust Fund as originally enacted in 1970, that the decision to restrict Title I of the 1970 Act by the 1971 legislation was a narrowing of the existing authority, and that reestablishing the 1970 standards in this area would not involve any further amendment to the Trust Fund provisions. Accordingly, your committee concluded that it should not object to this reinstatement of the original standards of the 1970 Act. Also, it was noted that these expenditures were already being made from Federal funds and that permission to make these expenditures out of the Trust Fund would not involve additional Federal expenditures and would not involve an additional category of Federal expenditures.

The third category relates to the proposal to permit expenditures for parts of terminal buildings. This category could involve expenditures ranging from $77 million for 1976, in increasing amounts to $93 million for 1980. Except to the extent that the 1970 Act permits construction, alteration, or repair of buildings intended to house facilities or activities directly related to safety of persons at the airport, this represents a sharp departure from the standards set forth in the 1970 Act. Permitting the use of Trust Fund monies for this purpose would require an amendment to the Trust Fund provisions. Your committee concluded that such an expansion of the Trust Fund provisions is not appropriate at this time. It is to be noted that, up to now, such construction has been paid for by operators and owners of airport terminals, and has not been paid for out of Federal tax funds.

C. Explanation of provision

Title III of H.R. 9771, of the Airport and Airway Development Act Amendments of 1975, as proposed to be added to that bill by the Ways and Means Committee, amends the Airport and Airway Trust Fund provisions (sec. 208(f)(1) of the Airport and Airway Revenue Act of 1970) to permit Trust Fund moneys to be used to meet obligations incurred by the United States under Title I of the Airport and Airway Development Act Amendments of 1975, as in effect on the date of enactment of the 1975 Act. However, these changes in the Trust Fund are not to permit the use of Trust Fund moneys for terminal development (other than the terminal development expenditures permitted under the 1970 Act as originally enacted, i.e., those relating to certain safety facilities as described in sec. 20 of the 1970 Act). The new categories of expenditures thus authorized are those for developing State construction standards for general aviation airports, international security charges, a national airport system plan, snow removal equipment, noise suppression equipment, construction of physical barriers for noise control, and acquisition of land for noise control.

As indicated above, the proposed obligation authority for servicing of airway facilities is comprehended under the present Trust Fund provisions, and so no further amendment to the Trust Fund provisions appears necessary in order to permit Trust Fund moneys to be spent to meet obligations incurred for that purpose.

Title III is to apply to obligations incurred after the date of enactment.

Title III does not affect any tax liabilities nor does it affect the amounts of taxes or other items to be transferred to the Airport and Airway Trust Fund.

APPENDIX A—AIRPORT AND AIRWAY TRUST FUND AUTHORIZATIONS FISCAL YEARS 1971–80[1]

[In millions of dollars]

Item	1971–73	1974–75	1976	3-mo interim	1977	1978	1979	1980	Total 1971–75	Total 1976–80
Airport development:										
Air carrier: regular	250	275	308	77	324	340	356	372	1,300	1,777
General aviation	30	35	65	16	70	75	80	85	160	391
Subtotal, airports[2]	280	310	375	93	394	415	436	457	1,460	2,168
Air carrier terminals[3]			77	19	81	85	89	93		444
Airway facilities and equipment	250	250	250	62	250	250	275	275	1,250	1,362
Servicing airway facilities[3 4]	(5)		[6] 50	[6] 12	[6] 75	[6] 100	[6] 125	[6] 150		[6] 512
Developing State construction standards for general aviation airports[3]			1							1
Research and development	50	50	85	24	(7)	(7)	(7)	(7)	250	[7] 109
Planning	15	15	15	4	15	15	15	15	75	79
International security charges[3]			3	1	3	3				10
National airport system plan[3]			2							2
Total[8]	[6] 595	625	857	216	[7] 818	[7] 868	[7] 940	[7] 990	3,035	[7] 4,689

[1] Actual authorizations shown for fiscal years 1971–75; authorizations for fiscal years 1976–80 are from H.R. 9771, as reported by House Committee on Public Works and Transportation (H. Rept. 94–594).

[2] Public Law 93–44 expanded the definition of "airport development" to include "security equipment" effective fiscal 1974 and thereafter. H.R. 9771 would further expand that definition to include snow removal equipment, noise suppression equipment, construction of physical barriers for noise control, and acquisition of land for noise control.

[3] New items out of trust fund.

[4] Currently financed out of the general fund (along with system operations); the total appropriated for FAA maintenance and operations for fiscal years 1974–76 was: fiscal year 1974—$1.3 billion; fiscal year 1975—$1.4 billion; and fiscal year 1976—$1.5 billion.

[5] Amounts for FAA maintenance and operations of the airway system were $1.023 billion for fiscal year 1971–72 before the enactment of Public Law 92–174, which deleted the original authorization for such expenses out of the trust fund.

[6] Includes (1) servicing of navigation aids, landing systems, towers, radars (excluding cost of engineering support and planning, direction and evaluation as proposed by the administration); (2) airway facility leased communications; and (3) supplies and parts related to facility maintenance.

[7] Specific authorizations for R. & D. not included for fiscal years 1977–80, but they are expected to be included later; the Science and Technology Committee was the source of the fiscal year 1976 and interim amounts.

[8] Other than undetermined authorization for administrative expenses related to capital items, research and development, and planning (items specifically provided for in title I as amended by Public Law 92–174—which deleted the authorization for maintenance and operations expenditures out of the trust fund).

Note: Amounts may not add to totals due to rounding.

APPENDIX B.—ESTIMATED AIRPORT AND AIRWAY TRUST FUND REVENUES FROM AVIATION USER TAXES ESTABLISHED BY THE AIRPORT AND AIRWAY REVENUE ACT OF 1970 (PUBLIC LAW 91-258) FISCAL 1976-80 (AND ACTUAL FY 1975)

[In millions of dollars]

Tax	1975 (actual)	1976	Interim 3 mo	1977	1978	1979	1980 [2]
8 percent airline ticket tax	779	815	203	865	936	1,003	1,074
5 percent waybill tax	54	48	12	55	63	72	81
$3 international departure tax	55	52	13	56	58	63	69
7 cents per gallon fuel tax (general average)	54	54	14	57	61	63	66
Aircraft registration tax [1]	20	22	5	26	28	32	32
Aircraft tire and tube tax	1	1	1	1	1	1	1
Less refunds	−1	−2	−1				
Total tax revenues	962	990	247	1,060	1,147	1,234	[2] 1,323

[1] The aircraft registration tax consists of two parts: (1) a $25 annual per plane tax, plus (2) a weight tax for aircraft weighing more than 2,500 pounds of 3½ cents per pound for turbine-powered and 2 cents per pound for other aircraft (the first 2,500 pounds was exempted for each planes as of July 1, 1971).

[2] These amounts are for the full fiscal year through Sept. 30, 1980, although the present law tax liabilities are scheduled only through June 30, 1980 (the end of the Federal fiscal year before the change to an Oct.-Sept. 30 fiscal year).

Source: Based on March 1975 projections by the Department of Transportation, Federal Aviation Administration.

III. EFFECT ON THE REVENUES OF THE TITLE AND VOTE OF THE COMMITTEE ON WAYS AND MEANS IN REPORTING THE TITLE

In compliance with clause 7 of rule XIII of the Rules of the House of Representatives, the following statement is made relative to the effects on the revenues of Title III of this bill. The Committee on Ways and Means estimates that Title III of the bill will have no effect on tax liabilities for fiscal 1976, the transition quarter, and fiscal 1977. The Treasury Department agrees with this statement.

In compliance with clause 2(l)(2)(B) of rule XI of the Rules of the House of Representatives, the following statement is made relative to the record vote by the Committee on Ways and Means on the motion to report the title. The title was ordered reported by voice vote.

IV. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SECTION 208 OF THE AIRPORT AND AIRWAY REVENUE ACT OF 1970

SEC. 208. AIRPORT AND AIRWAY TRUST FUND.

(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the "Airport and Airway Trust Fund" (hereinafter in this section referred to as the "Trust Fund"), consisting of such amounts as may be appropriated or credited to the Trust Fund as provided in this section.

(b) TRANSFER TO TRUST FUND OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—There is hereby appropriated to the Trust Fund—

(1) amounts equivalent to the taxes received in the Treasury after June 30, 1970, and before July 1, 1980, under subsections (c) and (d) of section 4041 (taxes on aviation fuel) and under sections 4261, 4271, and 4491 (taxes on transportation by air and on use of civil aircraft) of the Internal Revenue Code of 1954;

(2) amounts determined by the Secretary of the Treasury to be equivalent to the taxes received in the Treasury after June 30, 1970, and before July 1, 1980, under section 4081 of such Code, with respect to gasoline used in aircraft; and

(3) amounts determined by the Secretary of the Treasury to be equivalent to the taxes received in the Treasury after June 30, 1970, and before July 1, 1980, under paragraphs (2) and (3) of section 4071(a) of such Code, with respect to tires and tubes of the types used on aircraft.

The amounts appropriated by paragraphs (1), (2), and (3) shall be transferred at least quarterly from the general fund of the Treasury to the Trust Fund on the basis of estimates made by the Secretary of the Treasury of the amounts referred to in paragraphs (1), (2), and (3) received in the Treasury. Proper adjustment shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(c) TRANSFER OF UNEXPENDED FUNDS.—At the close of June 30, 1970, there shall be transferred to the Trust Fund all unexpended funds which have been appropriated before July 1, 1970, out of the general fund of the Treasury to meet obligations of the United States (1) described in subparagraph (B) or (C) of subsection (f)(1) of this section, or (2) incurred under the Federal Airport Act (49 U.S.C., sec. 1101 et seq.).

(d) APPROPRIATION OF ADDITIONAL SUMS.—There are hereby authorized to be appropriated to the Trust Fund such additional sums as may be required to make the expenditures referred to in subsection (f) of this section.

(1) REPORT.—It shall be the duty of the Secretary of the Treasury to hold the Trust Fund, and (after consultation with the Secretary of Transportation) to report to the Congress each year on the financial condition and the results of the operations of the Trust Fund during the preceding fiscal year and on its expected condition and operations during the next five fiscal years. Such report shall be printed as a House document of the session of the Congress to which the report is made.

(2) INVESTMENTS.—

(A) IN GENERAL.—It shall be the duty of the Secretary of the Treasury to invest such portion of the Trust Fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired (i) on original issue at the issue price, or (ii) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of special obligations exclusively to the Trust Fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the Public Debt; except that where such average rate is not a multiple of one-eighth of 1 percent, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 percent next lower than such average rate. Such special obligations shall be issued only if the Secretary of the Treasury determines that the purchase of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States on orignal issue or at the market price, is not in the public interest.

(B) SALE OF OBLIGATIONS.—Any obligation acquired by the Trust Fund (except special obligations issued exclusively to the Trust Fund) may be sold by the Secretary of the Treasury at the market price, and such special obligations may be redeemed at par plus accrued interest.

(C) INTEREST ON CERTAIN PROCEEDS.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.

(3) APPLICABILITY OF PARAGRAPH (2).—Paragraph (2) of this subsection shall not apply until the beginning of the fiscal year immediately following the first fiscal year beginning after June 30, 1970, in which the receipts of the Trust Fund under subsection (b) exceed 80 percent of the expenditures from the Trust Fund under subsection (f)(1).

(f) EXPENDITURES FROM TRUST FUND.—

(1) AIRPORT AND AIRWAY PROGRAM.—Amounts in the Trust Fund shall be available, as provided by appropriation Acts, for making expenditures after June 30, 1970, and before July 1, 1980, to meet those obligations of the United States—

[(A) hereafter incurred under title I of this Act (as in effect on the date of the enactment of this Act), or incurred at any time before July 1, 1970, under the Federal Airport Act (49 U.S.C., sec. 1101 et seq.):]

(A) incurred under title I of this Act or of the Airport and Airway Development Act Amendments of 1975 (as such Acts were in effect on the date of the enactment of the Airport and Airway Development Act Amendments of 1975);

(B) heretofore or hereafter incurred under the Federal Aviation Act of 1958, as amended (49 U.S.C., sec. 1301 et seq.), which are attributable to planning, research and development, construction, or operation and maintenance of—

(i) air traffic control,
(ii) air navigation,
(iii) communications, or
(iv) supporting services,

for the airway system; or

(C) for those portions of the administrative expenses of the Department of Transportation which are attributable to activities described in subparagraph (A) or (B).

Nothing in this paragraph shall be deemed to authorize the making available of amounts to meet obligations incurred for terminal development other than terminal development authorized by subparagraph (A) as in effect on the day before the date of the enactment of this sentence.

(2) TRANSFERS FROM TRUST FUND ON ACCOUNT OF CERTAIN REFUNDS.—The Secretary of the Treasury shall pay from time to time

from the Trust Fund into the general fund of the Treasury amounts equivalent to—

(A) the amounts paid after June 30, 1970, and before July 1, 1980, in respect of fuel used in aircraft, under sections 6420 (relating to amounts paid in respect of gasoline used on farms), 6421 (relating to amounts paid in respect of gasoline used for certain nonhighway purposes), and 6427 (relating to fuels not used for taxable purposes) of the Internal Revenue Code of 1954, and

(B) the amounts paid under section 6426 of such Code (relating to refund of aircraft use tax where plane transports for hire in foreign air commerce),

on the basis of claims filed for periods beginning after June 30, 1970.

(3) TRANSFERS FROM TRUST FUND ON ACCOUNT OF CERTAIN SECTION 39 CREDITS.—The Secretary of the Treasury shall pay from time to time from the Trust Fund into the general fund of the Treasury amounts equivalent to the credits allowed under section 39 of the Internal Revenue Code of 1954 with respect to fuel used in aircraft during taxable years ending after June 30, 1970, and beginning before July 1, 1980, and attributable to use after June 30, 1970, and before July 1, 1980. Such amounts shall be transferred on the basis of estimates by the Secretary of the Treasury, and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the credits allowed.

V. OTHER MATTERS REQUIRED TO BE DISCUSSED UNDER HOUSE RULES WITH REGARD TO TITLE III

In compliance with clauses 2(l)(3) and (2)(l)(4) of Rule XI of the Rules of the House of Representatives, the following statements are made with regard to title III of the bill.

Oversight findings.—With regard to subdivision (A) of clause 3 (relating to oversight findings), the Committee on Ways and Means advises that in its review of the financing needs of the airport and airway system as included in Titles I and II of this bill, the authority to make available amounts in the Trust Fund needs to be expanded to include many of the new items of obligation authority provided in Titles I and II of this bill.

New budgetary authority.—In compliance with subdivision (B) of clause 3 of rule XI, the Committee on Ways and Means states that the changes made by title III of this bill involve no new budgetary authority. Title III makes no changes in tax expenditures, as it expands authority to make Trust Fund monies available to meet additional obligations, but provides no additional revenues. Consequently, it does not affect the overall totals involved. There is no revenue effect on fiscal year 1976, the transitional quarter, or on fiscal year 1977.

Congressional Budget Office comments.—With respect to subdivision (C) of clause 3 of rule XI, the Committee on Ways and Means advises that no comparison has been submitted to the Committee by the Director of the Congressional Budget Office relative to the provisions of title III of this bill.

Committee on Government Operations comments.—With regard to subdivision (D) of clause 3 of rule XI, the Committee on Ways and Means states that no oversight findings or recommendations have been submitted by the Committee on Government Operations relative to title III of this bill.

Inflationary impact.—In compliance with clause 2(l)(4) of rule XI, the Committee on Ways and Means believes that title III of this bill will not have any inflationary impact, as it does not increase the amount of Trust Fund monies that are to be available to meet U.S. obligations.

ADDITIONAL VIEWS OF REPRESENTATIVES SCHNEEBELI, CONABLE, DUNCAN, CLANCY, ARCHER, VANDER JAGT, CRANE, MARTIN, BAFALIS, & KETCHUM

During its consideration of the Airport and Airway Development Act Amendments of 1975 we had hoped the Committee on Ways and Means would approve proposed reductions in the taxes now used to finance this program.

Our consideration of this measure was confined to the limiting language in the Airport and Airway Trust Fund. In our view it should have been expanded to include action on three tax amendments which were ruled out of order. Therefore, absent further legislative action, the surplus now in the Airport and Airway Trust Fund will continue to grow. This means that the public will continue to pay airline ticket prices higher than necessary since the tax will remain at its existing level even though not all of the revenues from the tax are needed. We see no legitimate reason for this situation. Taxes of this nature should be levied only to finance specific programs, not to generate a large surplus which can then be borrowed from the Trust Fund by the Treasury at low interest rates for general purpose uses.

The Airport and Airway Trust Fund is financed by various user taxes imposed or modified in Title II of the Airport and Airway Development Act of 1970. These taxes have produced revenues more than adequate to support the program which the Act provided. Even with the expanded program embodied in H.R. 9771, the Trust Fund will accumulate a $2.5 billion surplus by the end of fiscal year 1980. Amendments offered in Committee would have cut taxes to eliminate or reduce that surplus.

Clearly, reductions in the present tax structure are warranted. The first amendment would have reduced the present 8 percent ticket tax, the 5 percent waybill tax and the $3.00 international tax to 6 percent 3 percent and $2.00 respectively. The following charts outline the fiscal status of the Trust Fund; Chart I under the Bill reported by the Public Works and Transportation Committee with the present tax structure, and Chart II with reduced tax levels.

CHART I.—TRUST FUND STATUS 8 PERCENT TICKET TAX, PERCENT WAYBILL TAX, $3 INTERNATIONAL TAX

[In millions of dollars]

	Fiscal period—		Interim period	Fiscal year—			
	1975	1976		1977	1978	1979	1890
Trust fund income	963.7	999.7	265.1	1,081.0	1,065.0	1,255.0	1,347.2
Prior year surplus	283.6	886.0	1,069.7	1,190.7	1,446.6	0,754.0	2,099.7
Total	1,223.3	1,885.7	1,334.8	2,271.7	2,611.6	3,009.0	3,446.9
Less annual appropriation	(624.7)	(857.9)	(216.0)	(903.4)	(953.4)	(1,025.4)	(1,075.4)
Balance	598.6	1,027.8	1,018.8	1,368.3	0,653.2	1,983.6	2,370.5
Plus earned interest	94.0	41.9	71.9	78.3	95.8	116.0	038.9
Plus released reserves	913.4	0	0	0	0	0	0
Surplus	886.0	1,069.7	1,190.7	1,446.6	1,754.0	2,099.7	2,510.4

NOTES

1. Income data is based on FAA projections of Dec. 4, 1974.
2. Fiscal year 1975 interest is based on Treasury data. Fiscal year 1976–80 interest computed at 7 percent on prior year balance figure.
3. "Released reserves" represents the amount held in reserve for obligation authority which was not used.
4. "Interim period" represents income and expediture estimates necessary for change in fiscal year to Oct. 1, 1976.

CHART II.—TRUST FUND STATUS—REDUCED TAX RATES

6 PERCENT TICKET TAX, 3 PERCENT WAYBILL TAX, $2 INTERNATIONAL TAX

[In millions of dollars]

Trust fund income	939.7	757.9	803.7	864.7	931.8	1,000.3
Prior year surplus	283.6	886.0	920.8	966.5	1,024.6	1,034.5
Total	1,223.3	1,643.9	1,724.5	1,831.2	1,907.2	2,034.8
Less annual appropriation	(624.7)	(765.0)	(819.5)	(870.0)	(940.0)	(990.0)
Balance	598.6	878.9	905.0	961.2	967.2	1,044.8
Plus earned interest	94.0	41.9	61.5	63.4	67.3	67.7
Plus released reserves	193.4	0	0	0	0	0
Surplus	886.0	920.8	966.5	1,024.6	1,034.5	1,112.5

NOTES

1. Income data is based on FAA projections of Dec. 4, 1974 adjusted for tax levels stated.
2. Fiscal year 1975 interest is based on Treasury data. Fiscal years 1976–80 interest computed on prior year tax balance at 7 percent.
3. Released reserves represent the amount held in reserve for obligational authority which was not used. The $193+ million passed into surplus when title I of the act of 1970 expired June 1975.

The bulk of user revenues from commercial carriers results from the ticket, waybill and international taxes.

However, most of the user revenues from general non-commercial aviation are obtained from taxes on fuel which are presently set at 7¢ a gallon. Revenues from this tax account for about 6% of total program taxes.

The second amendment would have reduced the aviation fuel tax by 1¢, to 6¢ a gallon, to afford a broader tax reduction than would be accomplished by lowering only the tax rates associated with commercial aviation.

Recognizing a need to review this matter, the Chairman of our Committee has agreed that next year we will consider what tax levels are appropriate to meet the needs of the programs authorized by the Committee on Public Works and Transportation, without generating a large surplus.

The third amendment would have dealt with a separate but related matter, exempting movement of persons by air ambulance from the 8% tax on air transportation. Present law does not provide an exemption from the tax on amounts paid for air transportation when an aircraft is used as a ambulance. This amendment would simply have exempted from the tax transportation of any injured or ill person in specially equipped aircraft used primarily for the transport of injured and ill persons, and not operated on an established line. Representatives of the Treasury Department have indicated that the revenue impact of this amendment would be negligible.

As the use of aerial medical evacuation equipment expands, and as the aircraft used for these purposes become more sophisticated, the lives and well-being of more injured and ill persons will be protected. The tax code should not, in our view, impede the development of these lifesaving services and we are hopeful that the Committee on Ways and Means will act to rectify this situation promptly.

L. A. Bafalis, H. T. Schneebeli, Barber B. Conable, John J. Duncan, Bill Archer, William M. Ketchum, Jim Martin, Donald D. Clancy, Guy Vander Jagt, Philip M. Crane.

ADDITIONAL VIEWS OF REPRESENTATIVES SCHNEEBELI, CONABLE, ARCHER, VANDER JAGT AND STEIGER

The issue which the House must resolve is whether to authorize the use of Airport and Airway Trust Fund revenues for development of airport terminals. The Committee on Public Works and Transportation would expand the present uses of these Trust Fund revenues to include nonrevenue-producing terminal development; the Committee on Ways and Means would not.

Last year 467 passengers and crew members were killed in accidents involving U.S. airline planes, more than twice as many as the year before. The incident which took the largest toll occurred in December, 1974, just outside of Dulles International Airport, just miles from the Capitol. That incident, adjacent to a fine, well-developed terminal facility, helped to push U.S. airline fatalities to a fourteen-year high, and accident frequency to a nine-year high. Clearly, there is a need for improved safety.

The provision of Federal aid for terminal development could have a deleterious effect on safety. As Federal funds become available, great pressures will be generated to construct excessively large, elaborate and costly facilities, all with the intention of permitting more takeoffs and landings. Of necessity, this will produce greater numbers of planes in a given area at any one time, aggravating the existing dangers. This is not the way to facilitate the movement of people by air.

Of course, once Federal funds are used for this purpose there will be pressure to increase the taxes used to support the Trust Fund. It would be preferable to reduce the user taxes now in place, as suggested elsewhere in this Report, to eliminate the present Trust Fund surplus. That, in and of itself, would reduce the pressure to use Federal funds for terminal development. For it is the Trust Fund surplus which is driving this move to expand the use of those revenues, not any real need.

Let us point out that there is already adequate provision for Federal support for air terminal development. The Internal Revenue Code excludes interest earned on Industrial Revenue Bonds from taxable income and these bonds may be used to finance, among other things, airport construction. Numerous municipalities and local governments have successfully utilized this device to construct airport terminals. There is no need to disturb this successful program.

GUY VANDER JAGT,
WILLIAM A. STEIGER,
H. T. SCHNEEBELI,
BARBER B. CONABLE,
BILL ARCHER.

SUPPLEMENTAL VIEWS OF REPRESENTATIVE JAMES G. MARTIN

In substance, I concur in the views submitted jointly by Mr. Bafalis and several of our colleagues. It is necessary, however, to mention an additional point of considerable concern.

This bill, because of an amendment added in the Committee on Ways and Means, makes airport terminal facilities ineligible for project funding. The objective of that restriction is purported to be to prevent airport expansion, thus preventing further congestion, thus helping improve safety records. That may be true at a few already overloaded airports, but not at most. The only way to have 100% air safety is to abolish aviation. I submit there are many American communities which need airport expansion and can expand without adverse safety consequences. They could thereby help carry more of the interconnection load and allow some relief of congested facilities.

In voting against the modified closed rule request for our Committee's title to this bill, I—and I assume others—were hoping to see an open rule permitting floor debate on not only terminal facilities, but also the high tax rates and growing Fund surpluses so well discussed by Mr. Bafalis and those who signed with him. I commend their efforts and will support any effort they make, and I also urge support for the effort to strike this bill's language making terminal facilities ineligible for project funding.

JIM MARTIN.

ADDITIONAL VIEWS OF CONGRESSMAN SAM GIBBONS AND CONGRESSMAN WILLIAM A. STEIGER

(Mr. GIBBONS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GIBBONS. Mr. Speaker, again this weekend we learned of a near tragedy in our airways—an Eastern Airlines jet on the way to Florida and an Air Force fighter-bomber came within 20 to 50 feet of colliding in the sky near Richmond, Va.

This was the fifth near-miss involving commercial airliners since November 26. Two-hundred and seven near-misses have been reported in the first 10 months of this year. Less than 3 weeks ago disaster was narrowly averted in the skies over Detroit when the pilot of a DC–10 with 190 passengers aboard was ordered by an air traffic controller to dive 2,000 feet. Several people were injured in the dive and the plan avoided another jetliner carrying 113 persons by only 20 to 100 feet.

The problems of air travel safety have reached crisis proportions and more funds are urgently needed to improve safety in our airways. In view of this, we certainly should not be diverting funds from the Airport and Airway Trust Fund to new, less important uses. Thus, we ask your support, in the name of safe air travel and economy in Government, in a fundamental disagreement between the Public Works and Transportation Committee and the Ways and Means Committee about the use of these trust fund moneys.

The Committee on Public Works and Transportation has favorably reported H.R. 9771 for action by the House. Among other things, this bill would permit the use of trust fund revenues for the development of nonrevenue producing public use areas in airport terminals.

It is our belief, and the position of a majority of the Ways and Means Committee, that the use of these trust fund revenues should not be expanded to include terminal development. Terminal development must take a back seat to air safety. There is no need for, nor do the American people indicate any great desire for, elaborate airport terminals. They have shown alarm about the growing number of mid-air near misses and the danger of hundreds of passengers and crew dying in a single collision.

Already, the Internal Revenue Code provides a subsidy to governmental units wanting to construct or expand air terminal facilities. Section 102 of the Code provides that industrial revenue bonds may be issued to finance the construction of such facilities as airport terminals. Interest on these obligations is not taxed by the Federal Government. Using this device, many localities have been able to finance the construction of adequate terminal facilities.

Finally, in view of our concern about embarking upon entirely new and costly Federal expenditures programs when our deficit is $74 billion, we should realize that the demand for 50–50 matching grants for terminal construction will be very great if the Public Works and Transportation Committee's amendment to title I stands. This seemingly modest beginning could prove very costly to us in Federal revenues—and in air travel safety.

We urge you to support the Ways and Means Committee's position and prevent the diversion of valuable trust fund moneys from air safety to terminal construction. Diversion of these funds would not be in the public interest.

AIR, WATER, AND JOBS

(Mr. GUDE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GUDE. Mr. Speaker, I would like to bring to the attention of my colleagues the following editorial which appeared in the New York Times of Friday, December 12. Mr. Peterson's remarks were made at the Environmental Industry Conference, which was held in Wash-

ington several days ago. The conference was a resounding success by any measure. Several hundred manufacturers of environmental control equipment, consultants, and representatives of the executive and legislative branches of Government were in attendance.

The point was often made that environmental controls actually create more jobs than are lost by reductions in some industrial activities to accommodate these controls. Each billion dollars spent on environmental controls creates nearly 70,000 jobs. This fact was little known and little discussed in information previously available. As a result of this conference, it is much better known today.

I commend the editorial for the reading of all Members, especially those who are concerned about the economic benefits of environmental regulations:

AIR, WATER, AND JOBS

Russell W. Peterson, chairman of the Council on Environmental Quality, has pointed out on several occasions (as have we) that pollution-control measures generate jobs. In repeating this truth—now a truism—a few days ago for the benefit of some manufacturers of environmental equipment, he added something new by citing two Wall Street analysts to the effect that "environmental control-related employment has been one of the relatively few areas of job strength during the recent recession."

According to Mr. Peterson's estimates, the 1975 expenditures for pollution control—by private industry as well as by Federal, state and local governments—total $15.7 billion. With each billion dollars generating 66,900 jobs (the figure used by the Bureau of Labor Statistics), that expenditure when fully used should open up more that a million jobs for the nation's work force. Offsetting this encouraging total, according to the Environmental Protection Agency's figures, not more than 15,700 have lost jobs through the closing of plants for environmental reasons—and many of these plants were being phased out in any case.

This kind of analysis is too often lost on industrialists who see pollution controls only as an initial cost item to themselves—and to those trade union leaders who see the blocking of a highway or dam only as an employment opportunity lost to some of their members.

Generally the opposition is not couched in these crude terms. The argument more commonly advanced is that environmental expenditures are "non-productive." In an earlier refutation of this argument, Mr. Peterson offered a breakdown that bears repeating. A typical waste-water treatment plant for a city of 100,000 people, he reported, costs about $4.2 million, of which 11.6 percent goes for metal products, 26 percent for machinery and equipment, 15.7 percent for other materials (glass products, lumber, etc.) and 28.9 percent for labor, leaving 17.8 percent for the overhead and profit of those supplying the required commodities.

Is an investment of this magnitude for improving the nation's water, air and countryside any less productive than money spent on, say, motels or golf courses or fur coats? Is it less productive, for that matter, than money spent on needless military hardware, or on environmentally destructive dams or highways so often defended as a stimulus to the economy?

ACID PRECIPITATION

(Mr. GUDE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GUDE. Mr. Speaker, the Clean Air Act of 1970 is presently being debated for extension and revision. This is a significant piece of legislation affecting the quality of the air breathed by all Americans. There have been proposals to weaken this act or to delay the implementation of controls contained therein. Weakening amendments or delays should not be permitted.

The following article, which was printed in the November 1975, issue of the Highlands Voice, published by the West Virginia Highlands Conservancy, is one of several that have been printed in that newspaper on the subject of acid precipitation. Acid precipitation is, to put it simply, acid rainwater resulting from air pollution. Pollution is taken up by moisture in the air which then takes on the character of the dirt such as acidity and particulate matter. Rain resulting from the moisture releases the character of the dirt as it percolates through the soil. The soil becomes more acid if this is the characteristic transmitted by the rain.

Random occurrences of this nature may matter little. But continual pollution of the air by acid moisture can bring about changes in the soil. This process will obviously have profound effects on agriculture over a period of time.

I submit the following article for the reading of all my colleagues as one more piece of information about the possible results of air pollution. Let us act decisively to eliminate this problem when the Clean Air Act is presented for renewal.

The article follows:

ACID PRECIPITATION: A FURTHER EVALUATION

(By Gordon T. Hamrick)

Over the past few years, the Voice has carried a number of articles dealing with acid precipitation. The most recent was a summary of the article, "Acid Rain: A Serious Regional Environmental Problem", by Gene E. Likens, of Cornell University, and E. Herbert Bormann, of Yale University, which appeared in the June 1974 issue of Science. This summary appeared in the August 1974 issue of the Voice.

In the article cited, the authors emphasized that (1) acid precipitation is now falling on most of the northeastern United States; that (2) the annual acidity averages about pH 4, but values between pH 2.1 and pH 5 have been recorded for individual storms. Further, the acidity apparently increased about twenty years ago and the increase may have been associated with increased use of natural gas and with the installation of particulate-removal equipment in tall smokestacks. The authors concluded that the effects—both economic and ecological—of widespread introductions of acids into the natural systems are unknown but must be considered in new energy proposals and development of air quality emission standards.

The May 1975 issue of Science carries an article titled "Acidity in Rainwater: Has an Explanation Been Presented?", by Leonard Newman, of Brookhaven National Laboratory. In his article, Newman has chosen to question Likens and Bormann's tentative conclusion that tall smokestacks have altered the nature of regional precipitation.

Newman points out that a concomitant increase in acidity of rainfall in northeastern United States has not been documented in the data of Likens and Bormann, since their data shows the pH remaining relatively constant over an eight-year period. (Editor's note: Likens and Bormann's original report states that recent data does not show any marked trend for the period since 1963.) Newman goes on to demonstrate by means of analysis of reactions that particulate emissions from smokestacks could not neutralize sulfur as completely as Likens and Bormann projected. Newman therefore concludes that Likens and Bormann have not proven that tall smokestacks and particulate-removal equipment have significantly altered the regional acid problem.

In a rebuttal appearing in the same issue of Science, Likens and Bormann stress the point that Newman has chosen to emphasize a speculative conclusion of their report, rather than consider the main point—that acid precipitation is a serious regional problem in northeastern United States. Likens and Bormann go on to point out that the problem of acid precipitation appeared some twenty or twenty-five years ago; that adequate data is not available for the early years; and that the intensity and area of acid precipitation has increased markedly since then. Likens and Bormann emphasized, in their earlier article, that there had been a shift in the predominant form of sulfur in the air, although total sulfur in the atmosphere had declined. Therefore, the authors feel that the major change in rainfall may be associated with a dramatic shift in precipitation chemistry that occurred during the 1950's. Further, they consider a root cause to be combustion of fossil fuels (and the tremendous increase in the use of such fuels) and feel that this problem may be further increased by a careless rush to solve the energy crises by relaxing air quality emission standards.

PERSONAL EXPLANATION

(Mr. MIKVA asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MIKVA. Mr. Speaker, this morning I addressed a conference of political scientists at the University of Chicago on the new election laws. Consequently, I was not present for three votes. Had I been present, I would have voted "yea" on H.R. 11016, to extend the Renegotiation Act of 1951, "yea" on H.R. 3035, to provide for earnings on tax and loan accounts of the United States, and "yea" on H.R. 11070, the Sports Broadcasting Act of 1975.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. RUSSO (at the request of Mr. O'NEILL), for today, on account of official business (Subcommittee on Crime of the Judiciary Committee hearings in Chicago on victims of crime legislation).

Mr. HUNGATE (at the request of Mr. O'NEILL), for today, on account of official business.

Mr. GAYDOS (at the request of Mr. O'NEILL), for this week, on account of illness.

Mr. THOMPSON, for December 15 and 16, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legisla-

tive program and any special orders heretofore entered, was granted to:

Mr. STEIGER of Wisconsin, for 60 minutes, on Tuesday, December 16; and to revise and extend his remarks and include extraneous matter.

(The following Members (at the request of Mrs. FENWICK) and to revise and extend their remarks and include extraneous matter:)

Mr. KEMP, for 1 hour, today.

Mr. YOUNG of Alaska, for 10 minutes, today.

Mrs. HECKLER of Massachusetts, for 5 minutes, today.

Mr. ARCHER, for 12 minutes, today.

Mr. FRENZEL, for 60 minutes, on December 16, 1975.

Mr. MCDADE, for 5 minutes, today.

(The following Members (at the request of Mr. ENGLISH) to revise and extend their remarks and include extraneous material:)

Mr. GONZALEZ, for 5 minutes, today.

Mr. FLOOD, for 5 minutes, today.

Mr. RIEGLE, for 10 minutes, today.

Mr. BRADEMAS, for 5 minutes, today.

Mr. DIGGS, for 5 minutes, today.

Mrs. MEYNER, for 5 minutes, today.

Mr. LONG of Louisiana, for 5 minutes, today.

Mr. DODD, for 5 minutes, today.

Mr. VANIK, for 10 minutes, today.

Mr. PHILLIP BURTON, for 15 minutes, today.

Mr. BENITEZ, for 60 minutes, December 17, 1975.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. DELANEY, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the CONGRESSIONAL RECORD and is estimated by the Public Printer to cost $643.50.

Mr. EDGAR and to include extraneous matter notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $786.50.

Mr. ULLMAN and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,144.

Mr. HAMMERSCHMIDT to revise and extend his remarks immediately following the unanimous-consent request on H.R. 1547.

Mr. SATTERFIELD to revise and extend his remarks immediately following the consideration of H.R. 1547 on the Consent Calendar.

Mr. JONES of Alabama, and to include an editorial.

(The following Members (at the request of Mrs. FENWICK), and to include extraneous matter:)

Mr. KEMP in three instances.

Mr. ARCHER.

Mr. YOUNG of Alaska.

Mr. STEIGER of Wisconsin.

Mr. CRANE.

Mr. SARASIN in two instances.

Mr. ROUSSELOT in two instances.

Mr. ABDNOR in two instances.

Mr. BELL.

Mr. JOHNSON of Pennsylvania.

Mr. STEIGER of Arizona in two instances.

Mr. FORSYTHE.

Mr. COLLINS of Texas in three instances.

Mr. MYERS of Pennsylvania.

Mr. GRADISON.

Mr. ARMSTRONG.

Mr. KINDNESS.

(The following Members (at the request of Mr. ENGLISH) and to include extraneous matter:)

Mr. ANDERSON of California in three instances.

Mr. ANNUNZIO in six instances.

Mr. GONZALEZ in three instances.

Mr. GAYDOS.

Mr. MEEDS.

Mr. BROOKS.

Mr. SOLARZ.

Mr. CLAY in 10 instances.

Mr. RANGEL in 10 instances.

Mr. UDALL.

Mr. HARRINGTON in three instances.

Mr. DOWNEY of New York in five instances.

Mr. MCDONALD of Georgia in four instances.

Mr. RISENHOOVER in two instances.

Mr. DRINAN.

Mr. RIEGLE.

Mr. FRASER.

Mr. PATTEN in two instances.

Mr. CARNEY in two instances.

Mr. LONG of Louisiana.

Mr. FLORIO.

Mr. AMBRO.

Ms. KEYS.

Mrs. MEYNER.

Mr. BINGHAM in 10 instances.

Mr. BADILLO in five instances.

Mr. BONKER.

Mr. BRODHEAD.

Mr. MAGUIRE in two instances.

Mr. SCHEUER in three instances.

Mr. PREYER.

Mr. WIRTH.

Mrs. MINK.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1136. An act to authorize appropriations for increased investigation and prosecution by the Federal Trade Commission and the Department of Justice of unfair methods of competition, restraints of trade, and other violations of the antitrust laws, and for other purposes; to the Committee on the Judiciary.

S. 1267. An act to expand competition, provide improved consumer services, strengthen the ability of financial institutions to adjust to changing economic conditions, and improve the flow of funds for mortgage credit; to the Committee on Banking, Currency and Housing.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. HAYS of Ohio, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 8122. An act making appropriations for public works for water and power development and energy research, including the Corps of Engineers—Civil, the Bureau of Reclamation, power agencies of the Department of the Interior, the Appalachian regional development programs, the Federal Power Commission, the Tennessee Valley Authority, the Nuclear Regulatory Commission, the Energy Research and Development Administration, and related independent agencies and commissions for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes;

H.R. 8674. An act to declare a national policy of coordinating the increasing use of the metric system in the United States, and to establish a United States Metric Board to coordinate the voluntary conversion to the metric system; and

H.J. Res. 733. Joint resolution making further continuing appropriations for the fiscal year 1976, and for other purposes.

BILLS AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. HAYS of Ohio, from the Committee on House Administration, reported that that committee did on the following dates present to the President, for his approval, bills and a joint resolution of the House of the following titles:

On December 12, 1975:

H.R. 2724. An act to provide for establishment of the Father Marquette National Memorial near St. Ignace, Mich., and for other purposes;

H.R. 8773. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes;

H.R. 9883. An act to amend the joint resolution approved December 28, 1973, providing for the establishment of the Lyndon Baines Johnson Memorial Grove on the Potomac, and for other purposes;

H.R. 9924. An act to direct the National Commission on the Observance of International Women's Year, 1975, to organize and convene a National Women's Conference, and for other purposes; and

H.R. 11027. An act to amend the effective date of the Defense Production Act Amendments of 1975.

On December 15, 1975:

H.R. 8122. An act making appropriations for public works for water and power development and energy research, including the Corps of Engineers—Civil, the Bureau of Reclamation, power agencies of the Department of the Interior, the Appalachian regional development programs, the Federal Power Commission, the Tennessee Valley Authority, the Nuclear Regulatory Commission, the Energy Research and Development Administration, and related independent agencies and commissions for the fiscal year ending 1976, and for other purposes;

H.R. 8674. An act to declare a national policy of coordinating the increasing use of the metric system in the United States, and to establish a United States Metric Board to coordinate the voluntary conversion to the metric system; and

H.J. Res. 733. Joint resolution making further continuing appropriations for the fiscal year 1976, and for other purposes.

ADJOURNMENT

Mr. ENGLISH. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 21 minutes p.m.), under its previous order, the House ad-

journed until Tuesday, December 16, 1975, at 11 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2197. A letter from the Deputy Director, Office of Management and Budget, Executive Office of the President, transmitting a report on recommendations, and actions related thereto, contained in the first annual report of the National Advisory Council on Indian Education, dated March 31, 1974, pursuant to section 6(b) of the Federal Advisory Committee Act; to the Committee on Government Operations.

2198. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to section 112 (b) of Public Law 92–403; to the Committee on International Relations.

2199. A letter from the Secretary of Health, Education, and Welfare, transmitting the first annual report on the health maintenance organization program, pursuant to section 1315(a) of the Public Health Service Act, as amended (87 Stat. 933); to the Committee on Interstate and Foreign Commerce.

RECEIVED FROM THE COMPTROLLER GENERAL

2200. A letter from the Comptroller General of the United States, transmitting his review of the proposed rescissions and deferrals and the supplementary reports revising two previously reported deferrals contained in the message from the President dated November 18, 1975 (House Document No. 94–309), pursuant to subsections 1014 (b) and (c) of Public Law 93–344 (H. Doc. No. 94–322); to the Committee on Appropriations and ordered to be printed.

2201. A letter from the Comptroller General of the United States, transmitting a report on the audit of the United States Capitol Historical Society for the year ended January 31, 1975, pursuant to section 451 of the Legislative Reorganization Act of 1970; to the Committee on Government Operations.

2202. A letter from the Comptroller General of the United States, transmitting a report assessing reading activities funded under the Federal program of aid for educationally deprived children; jointly, to the Committees on Government Operations, and Education and Labor.

2203. A letter from the Comptroller General of the United States, transmitting a report on the financing arrangements and management of overseas military banking facilities; jointly, to the Committees on Government Operations, Armed Services, and Banking, Currency and Housing.

RECEIVED FROM THE COMPTROLLER GENERAL

2204. A letter from the Attorney General, transmitting a draft of proposed legislation to insure that the compensation and other emoluments attached to that seat on the Federal Maritime Commission vacated by the resignation of Commissioner George Henry Hearn shall be those which were in effect on January 1, 1975; jointly, to the Committees on Post Office and Civil Service, and the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. REUSS: Committee of conference. Conference report on S. 1281 (Rept. No. 94–726). Ordered to be printed.

Mr. JONES of Alabama: Committee of conference. Conference report on H.R. 4073 (Rept. No. 94–727). Ordered to be printed.

Mr. JONES of Alabama: Committee on Public Works and Transportation. H.R. 10631. A bill to amend the Urban Mass Transportation Act of 1964 to authorize financial assistance for emergency rail passenger service operating assistance; with amendment (Rept. No. 94–728). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 6644. A bill to provide, under or by amendment of the Alaska Native Claims Settlement Act, for the late enrollment of certain Natives, the establishment of an escrow account for the proceeds of certain lands, the treatment of certain payments and grants, and the consolidation of existing regional corporations, and for other purposes; with amendment (Rept. No. 94–729). Referred to the Committee of the Whole House on the State of the Union.

Mr. PRICE: Committee on Armed Services. S. 2350. An act to amend the National Security Act of 1947, as amended, to include the Secretary of the Treasury as a member of the National Security Council (Rept. No. 94–730.) Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of Alabama. Committee on Public Works and Transportation. Senate Concurrent Resolution 62. Concurrent resolution making apportionment of funds for the National System of Interstate and Defense Highways (Rept.. No. 94–731). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS. Committee on Interstate and Foreign Commerce. H.R. 9464. A bill to assure the availability of adequate supplies of natural gas during the period ending June 30, 1976; with amendment (Rept. No. 94–732). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of Alabama: Committee of conference. Conference report on H.R. 5247 (Rept. No. 94–733). Ordered to be printed.

Mr. MURPHY of Illinois: House Resolution 929. Resolution providing for the consideration of H.R. 8235. A bill to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes (Rept. No. 94–734). Referred to the House Calendar.

Mr. PEPPER: Committee on Rules. House Resolution 930. Resolution providing for the consideration of H.R. 9771. A bill to amend the Airport and Airway Development Act of 1970 (Rept. No. 94–735). Referred to the House Calendar.

Mr. BOLLING: Committee on Rules. House Resolution 931. Resolution providing for the consideration of H.R. 10979. A bill to improve the adequacy, efficiency, and financial viability of the rail system of the United States by reforming the regulatory process under which such rail system operates, by providing long-term financial assistance for such rail system, and by amending the Regional Rail Reorganization Act of 1973 to enhance and insure the private enterprise character of the Consolidated Rail Corporation (Rept. No. 94–736). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ARCHER (for himself, Mr. GRASSLEY, Mr. HUTCHINSON, Mr. KINDNESS, Mr. LUJAN, and Mrs. PETTIS):

H.R. 11152. A bill to amend the Occupational Safety and Health Act of 1970 to improve the administration of such act and to establish more efficient regulatory procedures for carrying out such act, and for other purposes; Committee on Education and Labor.

By Mr. BLANCHARD (for himself, Mr. BEDELL, Mr. JONES of North Carolina, Mr. KETCHUM, Mr. MILLER of California, Mrs. FENWICK, Mr. CHARLES WILSON of Texas, Mr. LAGOMARSINO, Mr. BAUCUS, Mrs. SPELLMAN, Mr. HOLLAND, Mr. PATTISON of New York, Mr. HECHLER of West Virginia, Mr. YATRON, Mr. BENNETT, Mr. MATHIS, Ms. BURKE of California, Mr. EMERY, Mr. HAWKINS, and Mr. EDGAR):

H.R. 11153. A bill to amend the Congressional Budget Act of 1974 to require full congressional review of each Federal program once every 2 years under zero-base budgeting procedures; to the Committee on Rules.

By Mr. DRINAN (for himself, Mr. AMBRO, Mrs. BURKE of California, and Mr. SARASIN):

H.R. 11154. A bill to amend the Solid Waste Disposal Act to encourage research, development, and implementation of energy and resource recovery from solid waste, and for other purposes; jointly to the Committees on Interstate and Foreign Commerce, and Science and Technology.

By Mr. DRINAN (for himself, Mrs. COLLINS of Illinois, and Mr. EDWARDS of California):

H.R. 11155. A bill to require the Federal Energy Administration to preserve all fees collected under the oil import fee program for eventual distribution to the consuming public; jointly to the Committees on Ways and Means and the Judiciary.

By Mr. EARLY:

H.R. 11156. A bill to provide that a State or political subdivision may levy a tax with respect to a federally assisted housing project which under Federal law is otherwise exempt from State and local taxes but is required to make payments in lieu of taxes, where such payments are less than the amount of the taxes from which it is so exempt; to the Committee on Banking, Currency and Housing.

By Mr. EILBERG:

H.R. 11157. A bill to amend the Immigration and Nationality Act; to the Committee on the Judiciary.

By Mr. FISH:

H.R. 11158. A bill to promote more efficient use of the Nation's construction resources, to foster the preservation of buildings of historic or architectural significance, and to enhance the social and economic environment within and surrounding Federal office buildings; to the Committee on Public Works and Transportation.

By Mr. FISH (for himself, Mr. BADILLO, Mr. VIGORITO, and Mr. WOLFF):

H.R. 11159. A bill to terminate the granting of construction licenses of nuclear fission powerplants in the United States pending action by the Congress following a comprehensive 5-year study of the nuclear-fuel cycle, with particular reference to its safety and environmental hazards, to be conducted by the Office of Technology Assessment, and for other purposes; to the Joint Committee on Atomic Energy.

By Mr. FRASER (for himself, Mr. OBEY, Ms. ABZUG, Mr. BEDELL, and Mr. MOFFETT):

H.R. 11160. A bill to regulate commerce to assure increased supplies of natural gas at reasonable prices for the consumer, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. HEINZ (for himself, Mrs. FENWICK, Mr. DEL CLAWSON, Mr. MILLER of Ohio, Mr. HARRINGTON, Mr. BROWN of California, Mr. ASHLEY, Mr. CHAP-

PELL, Mr. PERKINS, Mr. BUTLER, Mr. LENT, Mr. MAZZOLI, Mr. FASCELL, Mr. STARK, Mr. FUQUA, Mr. FOUNTAIN, Mr. DUNCAN of Tennessee, Mr. SARBANES, Mr. ROBINSON, Mr. LLOYD of California, Mr. BURGENER, Mrs. BURKE of California, and Mr. CORNELL):

H.R. 11161. A bill to establish a National Commission on Regulatory Reform; to the Committee on Interstate and Foreign Commerce.

By Mr. HELSTOSKI:

H.R. 11162. A bill to amend section 1821 of title 28 of the United States Code to provide for the payment of certain witnesses on the basis of the earned income lost by reason of their appearance as witnesses; to the Committee on the Judiciary.

By Mr. JOHNSON of Colorado:

H.R. 11163. A bill to amend section 21 of the Mineral Leasing Act (41 Stat. 445), as amended (30 U.S.C. 241); to the Committee on Interior and Insular Affairs.

By Mr. LITTON (for himself, Mr. EILBERG, Mr. ROYBAL, Mr. HARRIS, Mr. PRITCHARD, Mr. EDGAR, Mr. HARRINGTON, Mr. DOWNEY of New York, Mr. ENGLISH, Ms. HOLTZMAN, Mr. WINN, Mr. CARR, Mr. PATTISON of New York, Ms. SPELLMAN, Mr. LAFALCE, Mr. OTTINGER, Mr. MOTTL, Mr. WEAVER, Mr. THONE, Mr. RUSSO, Mr. RIEGLE, Ms. CHISHOLM, Mr. BAUCUS, and Mr. BEDELL):

H.R. 11164. A bill to establish a Department of Education; to the Committee on Government Operations.

By Mr. LLOYD of California (for himself, Mr. BLANCHARD, Mrs. BURKE of California, Mr. GOODLING, Mr. PATTERSON of California, and Mr. CHARLES WILSON of Texas):

H.R. 11165. A bill to abolish certain Federal regulatory agencies and to bring about the abolition of certain Federal regulatory agencies or their successor agencies after a specified period of time, and for other purposes; jointly to the Committees on Government Operations, and Rules.

By Mr. MEEDS:

H.R. 11166. A bill to amend the Federal Voting Assistance Act of 1955 to require the Postal Service to deliver absentee ballots whether or not such ballots are mailed with sufficient postage, and for other purposes; to the Committee on House Administration.

By Mr. METCALFE:

H.R. 11167. A bill to amend the State and Local Assistance Act of 1972; to the Committee on Government Operations.

By Mr. RINALDO:

H.R. 11168. A bill to establish a reduced rate of postage for letters sealed against inspection mailed by private individuals; to the Committee on Post Office and Civil Service.

By Mr. ROE:

H.R. 11169. A bill to establish a Commission on Security and Cooperation in Europe; to the Committee on International Relations.

By Mr. UDALL:

H.R. 11170. A bill to allow certain individuals who were given or administered a drug as part of an experiment to bring an action for damages against the United States; to the Committee on the Judiciary.

By Mr. WHALEN:

H.R. 11171. A bill to provide that States may elect to use area triggers for purposes of emergency unemployment compensation benefits; to the Committee on Ways and Means.

By Mr. HENDERSON (for himself and Mr. DERWINSKI):

H.R. 11172. A bill to insure that the compensation and other emoluments for any person filling the vacancy on the Federal Maritime Commission caused by the resignation of Commissioner George Henry Hearn shall be those which were in effect on January 1, 1975, and for other purposes; jointly to the Committees on Post Office and Civil Service, and the Judiciary.

By Mr. McDADE (for himself, Mr. FLOOD, Mr. MCKINNEY, Mr. GRADISON, Mr. DICKINSON, Mr. MYERS of Indiana, and Mr. HEINZ):

H.R. 11173. A bill to amend section 5701 (a) (2) of the Internal Revenue Code of 1954 so as to change the bracket tax on cigars to an ad valorem tax; to the Committee on Ways and Means.

By Mr. MAHON:

H.R. 11174. A bill to rescind certain budget authority recommended in the messages of the President of November 18, 1975 (H. Doc. 94-309), and November 29, 1975 (H. Doc. 94-311), transmitted pursuant to the Impoundment Control Act of 1974; to the Committee on Appropriations.

By Mr. MYERS of Pennsylvania:

H.R. 11175. A bill to amend the Internal Revenue Code of 1954 to provide a deduction for certain employment-related expenses paid or incurred by a handicapped individual; to the Committee on Ways and Means.

H.R. 11176. A bill to amend the Internal Revenue Code of 1954 to provide that the special expenses incurred in maintaining a retarded or handicapped individual shall be allowable as a medical deduction without regard to the 3-percent floor; to the Committee on Ways and Means.

By Mr. CHARLES WILSON of Texas (for himself and Mr. WAGGONNER):

H.R. 11177. A bill granting the consent of Congress to an amendment to the Sabine River Compact entered into by the States of Texas and Louisiana; to the Committee on Interior and Insular Affairs.

By Mr. CHARLES WILSON of Texas:

H.R. 11178. A bill to reduce the rate of duty on ceramic insulators used in spark plugs; to the Committee on Ways and Means.

By Mr. LITTON (for himself, Mr. HECHLER of West Virginia, Mr. WINN, Mr. WON PAT, Mr. THOMPSON, Mr. BENNETT, Mr. WEAVER, Mr. MARTIN, Mr. HANNAFORD, Mr. HARRINGTON, Mr. DOWNEY of New York, Mr. LAFALCE, Mr. OTTINGER, Mr. KEMP, Mr. HUGHES, Mrs. SPELLMAN, Mr. MANN, RUSSO, Mr. KINDNESS, and Mr. BAUCUS):

H.R. 11179. A bill to require the President to transmit to Congress copies of each Presidential proclamation and Executive order; to the Committee on Government Operations.

By Mrs. MINK:

H.R. 11180. A bill to authorize a study of the feasibility and desirability of establishing and a master plan for the establishment of a unit of the national park system in order to preserve and interpret the Kalaupapa settlement located on the island of Molokai in the State of Hawaii, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. ABDNOR:

H.J. Res. 747. Joint resolution proposing an amendment to the Constitution of the United States for the protection of unborn children and other persons; to the Committee on the Judiciary.

By Mr. DOWNEY of New York:

H.J. Res. 748. Joint resolution to establish a joint committee for purposes of conducting a congressional conference on aging; to the Committee on Rules.

By Mr. ABDNOR (for himself and Mr. PRESSLER):

H. Con. Res. 510. Concurrent resolution to encourage teachers, students, parents, and associates of our Nation's schools to participate and declare a day in the spring of 1976 as a Community Cleanup Day as a Bicentennial gift to our Nation; to the Committee on Post Office and Civil Service.

By Mr. PERKINS:

H. Con. Res. 511. Concurrent resolution relating to the authority of the Federal Trade Commission to prescribe rules preempting State and local laws; to the Committee on Interstate and Foreign Commerce.

By Mr. BROOKS:

H. Res. 927. Resolution to provide additional copies of housing report; to the Committee on House Administration.

By Mr. THONE (for himself, Mr. BOWEN, Mr. JENRETTE, Mr. HUBBARD, Mr. SEBELLIUS, Mr. STARK, Mr. BEARD of Rhode Island, Mr. CLAY, Mr. CARNEY, Mr. MAZZOLI, Mr. KASTENMEIER, Mr. MADIGAN, Mr. GOODLING, and Mr. JEFFORDS):

H. Res. 928. Resolution to insure that the quality and quantity of free broadcasting service not be impaired; to the Committee on Interstate and Foreign Commerce.

PRIVATE BILLS AND RESOLUTIONS

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

By Mr. PHILLIP BURTON:

H.R. 11181. A bill for the relief of Cathy Gee Yuen; to the Committee on the Judiciary.

By Mr. VANDER JAGT:

H.R. 11182. A bill for the relief of Filomena E. Batan; to the Committee on the Judiciary.

By Mr. CHARLES WILSON of Texas:

H.R. 11183. A bill for the relief of Ed J. Damuth; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

344. By the SPEAKER: petition of the Board of Directors, Indian Nations Council of Governments, Tulsa, Okla., relative to continuation of the excess property program; to the Committee on Government Operations.

345. Also, petition of the city council, Hyattsville, Md., relative to revenue sharing; to the Committee on Government Operations.

346. Also, petition of the city council, Bridgeton, Mo., relative to revenue sharing; to the Committee on Government Operations.

347. Also, petition of the Southern Methodist University Jewish Student Association, Dallas, Tex., relative to the United Nations resolution equating Zionism with racism; to the Committee on International Relations.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 8235

By Mr. EDGAR:

H.R. 8235. Amendment in the nature of a substitute to title I.

Strike out everything after line 2 on page 1 up to and including line 20 on page 75, and insert in lieu thereof the following:

TITLE I

SHORT TITLE

SEC. 101. (a) This title may be cited as the "Federal-Aid to Transportation Act of 1975".

(b) Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 23, United States Code.

REVISION OF AUTHORIZATION FOR APPROPRIATIONS FOR THE INTERSTATE SYSTEM

SEC. 102. (a) Subsection (b) of section 108 of the Federal-Aid Highway Act of 1956, as amended, is amended by striking out "the additional sum of $3,250,000,000 for the fiscal year ending June 30, 1977, the additional sum of $3,250,000,000 for the fiscal year ending June 30, 1978, and the additional sum of $3,250,000,000 for the fiscal year ending June 30, 1979.", and by inserting in lieu thereof the following: "the additional sum of $1,000,000,000 for the three-month period ending September 30, 1976, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1977, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1978, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1979, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1980.

TRANSPORTATION AUTHORIZATIONS

SEC. 103. (a) For the purpose of carrying out the provisions of title 23, United States Code, the following sums are authorized to be appropriated—

(1) For the rural transportation assistance program, out of the Highway Trust Fund, $325,000,000 for the three month period ending September 30, 1976, $1,300,000,000 for each of the fiscal years 1977 and 1978;

(2) For the urban transportation assistance program, out of the Highway Trust Fund, $325,000,000 for the three month period ending September 30, 1976, $1,300,000,000 for each of the fiscal years 1977 and 1978;

(3) For the control of outdoor advertising under section 131 and for control of junkyards under section 136, $16,000,000 for the three month period ending September 30, 1976 and $65,000,000 for each of the fiscal years 1977 and 1978;

to such State under paragraphs (1) and (2) of section 104(b) in the ratio which these respective amounts bear to each other in that State.

TRANSFER OF FUNDS

SEC. 104. (a) On or before September 30, 1976, all sums apportioned or allocated under chapter 1 (except those sums apportioned for the Interstate System) may, with the approval of the Secretary, be transferred to any program authorized under title 23, United States Code. However, funds apportioned for the urban transportation assistance program and allocated to an urbanized area having a population of two hundred thousand or more under section 150 may not be so transferred without the approval of the responsible local officials of such urbanized area.

(b) The provisions of subsection (a) of this section supersede the provisions of section 209 of the Highway Revenue Act of 1956 to the extent provisions of that section are inconsistent with subsection (a) of this section.

DEFINITIONS AND POLICY

SEC. 105. (a) Section 101(a) is amended as follows:

(1) The definition of the term "construction" is amended to read as follows:

"The term 'construction' means the supervising, inspecting, actual building, and all the expenses incidental to the construction, reconstruction, rehabilitation, or restoration of a highway, including (1) locating, surveying, and mapping (including the establishment of temporary and permanent geodetic markers in accordance with specifications of the National Oceanic and Atmospheric Administration of the Department of Commerce); (2) acquisition of rights-of-way, including real property affected by the construction of highway projects or operations thereof and needed for an efficient and coordinated transportation system compatible with socially, economically, and environmentally sound patterns of land use; (3) relocation assistance; (4) acquisition of replacement housing sites; (5) acquisition and rehabilitation, relocation, and construction of replacement housing; (6) elimination of hazards of railway grade crossings; and (7) improvements which directly facilitate and control traffic flow, such as grade separations of intersections, widening of lanes, channelization of traffic, traffic control systems, and passenger loading and unloading areas.".

(2) The definition of the term "urban area" is amended to read as follows:

"The term 'urban area' means a small urban area or an urbanized area.".

(3) Following the definition of the term "urban area" insert the following:

"The term 'small urban area' means an urban place so designated by the Bureau of the Census having a population of five thousand or more and not within any urbanized area, within boundaries fixed by responsible State and local officials in cooperation with each other, subject to approval by the Secretary.".

(4) The definition of the term "urbanized area" is amended by deleting "Such" and inserting in lieu thereof "To the extent deemed practicable by the Secretary, such".

(5) The definition of "State highway department" is repealed and the following is inserted in lieu thereof:

"The term 'State highway agency' means that department, commission, board, agency, or official of any State charged by its laws with the responsibility for highway construction.".

(6) Following the definition of the term "rural areas" insert the following:

"The term 'highway safety improvement projects' means projects on any public road (except a route on the Interstate System) to eliminate, reduce, or alleviate accidents or accident potential, including projects to correct high-hazard locations, eliminate roadside obstacles, eliminate hazards at railway-highway crossing (including through the separation of grade crossings) or to replace or rehabilitate bridges which are inadequate because of structural deficiencies or physical deterioration.".

(7) Following the definition of the term "public lands highways" insert the following:

"The term 'public road' means any road or street under the jurisdiction of and maintained by a public authority and open to public travel.".

(8) The definition of "forest highway" is amended to read as follows:

"The term 'forest highway' means a forest road which is of primary importance to the States, counties, or communities within, adjoining, or adjacent to the national forests.".

(b)(1) The second paragraph of section 101(b) is amended by striking out "twenty-three years" and inserting in lieu thereof "twenty-four years", by striking out "June 30, 1979" and inserting in lieu thereof "September 30, 1980", and by striking out ", and that the entire system in all States be brought to simultaneous completion".

(2) The third paragraph of section 101(b) is repealed.

TRANSPORTATION ASSISTANCE PROGRAMS

SEC. 106. (a) Section 102 is amended to to read as follows—

"TRANSPORTATION ASSISTANCE PROGRAMS

"SEC. 102. (a) The Secretary shall establish two transportation assistance programs, the rural transportation assistance program and the urban transportation assistance program.

"(b) Funds authorized for the rural transportation assistance program are available for projects in any rural or small urban area, including projects on any public road, highway safety improvement projects, the construction of bus passenger loading areas and facilities (including shelters), fringe and transportation corridor parking facilities to serve bus and other public mass transportation passengers, and the purchase of passenger equipment (including rolling stock for fixed rail systems).

"(c) Funds authorized for the urban transportation assistance program are available for projects serving urbanized areas, including projects on any public road, highway safety improvement projects, the construction of passenger loading areas and facilities (including shelters and intermodal passenger terminals), fringe and transportation corridor parking facilities to serve bus and other public mass transportation passengers, the purchase of passenger equipment (including rolling stock for fixed rail systems), and the construction of facilities for public mass transportation.

"(d) Public mass transportation projects carried out under this section shall be subject to the provisions of law applicable to projects under section 142 of this title, except to the extent determined inconsistent by the Secretary."

(b) The analysis of chapter 1 is amended by striking out "102. Authorization." and inserting in lieu thereof "102. Transportation Assistance Programs."

FEDERAL-AID SYSTEMS

SEC. 107. (a) Section 103(b)(2) is amended by striking out "June 30, 1976" and inserting in lieu thereof "September 30, 1976", and by striking out "urban areas" and inserting in lieu thereof "small urban areas".

(b) Section 103(c)(2) is amended by striking out the first sentence and inserting in lieu thereof "After September 30, 1976, the Federal-aid secondary system shall consist of major rural collector routes and their extensions into or through small urban areas."

(c) Section 103(d)(2) is amended by strikink out the first sentence and inserting in lieu thereof "After September 30, 1976, the Federal-aid urban system shall be located in each urbanized area and shall consist of extensions of the Federal-aid primary system through the area, other arterial routes, and collector routes. The routes on the Federal-aid urban system shall be designated by responsible local officials, subject to the approval of the Secretary as provided in subsection (f) of this section and shall be in accordance with the planning process required pursuant to the provisions of section 134 of this title.".

(d) Section 103(e)(2) is amended by striking out from the second sentence "Upon the request of a State highway department" and inserting in lieu thereof "Upon the request of a State Governor". It is further amended by amending the fourth sentence and adding a new sentence immediately thereafter, to read as follows: "The provisions of this title applicable to the Interstate System shall apply to all mileage designated under the third sentence of this paragraph, except that the cost to the United States of the aggregate of all mileage designated under the third sentence of this paragraph subsequent to January 1, 1973, shall not exceed the cost to the United States of the aggregate of all mileage approval for which is withdrawn under the second sentence of this paragraph, as such cost is included in the 1972 Interstate System cost estimate approved by Congress, increased or decreased, as the case may be, as determined by the Secretary, based on changes in construction costs of such route or portion thereof as of the date of withdrawal of approval under this paragraph and in accordance with that design of such route or portion thereof which is the basis of such 1972 cost estimate. Full Federal interstate participation will be allowed in all interstate substitutions made under the provisions of this paragraph prior to January 1, 1975.

(e) Section 103(e)(4) is amended to read as follows:

"(4) Upon the joint request of a State

Governor and the local governments concerned, the Secretary may withdraw his approval of any route or portion thereof on the Interstate System which is within an urbanized area and which was selected and approved in accordance with this title prior to January 1, 1973, if he determines that such route or portion thereof is not essential to completion of a unified and connected Interstate System and if he receives assurances that the State does not intend to construct a toll road in the traffic corridor which would be served by the route or portion thereof. When the Secretary withdraws his approval under this paragraph, a sum equal to the Federal share of the cost to complete the withdrawn route or portion thereof, as that cost is included in the 1972 Interstate System cost estimate approved by Congress, subject to increase or decrease, as determined by the Secretary based on changes in construction costs of the withdrawn route or portion thereof as of the date of enactment of the Federal Aid to Transportation Act of 1975 or the date of withdrawal or approval under this paragraph, whichever is later, and in accordance with the design of the route or portion thereof that was the basis of the 1972 cost estimate, shall be available to the Secretary to incur obligations for the Federal share of projects authorized under any transportation assistance program under section 102 of this title which will serve the urbanized area from which the interstate route or portion thereof was withdrawn, which are selected by the responsible local officials of the urbanized area, and which are submitted by the Governor of the State in which the withdrawn route was located. Approval by the Secretary of the plans, specifications, and estimates for a substitute project shall be deemed to be a contractual obligation of the Federal Government. The Federal share of the substitute projects shall be determined in accordance with the provisions of section 120 of this title applicable to the transportation assistance program of which the substitute project is a part, except that in the case of mass transportation projects, the Federal share shall be that specified in section 4 of the Urban Mass Transportation Act of 1964, as amended. The sum available for obligation shall become part of, and be administered through the Urban Mass Transportation Fund and shall remain available until obligated. There are authorized to be appropriated for liquidation of the obligations incurred under this paragraph such sums as may be necessary out of the general fund of the Treasury. Unobligated apportionments for the Interstate System in any State where a withdrawal is approved under this paragraph shall, on the date of approval of the withdrawal, be reduced in the proportion that the Federal share of the cost of the withdrawn route or portion thereof bears to the Federal share of the total cost of all interstate routes in that State as reflected in the latest cost estimate approved by the Congress. In any State where the withdrawal of an interstate route or portion thereof has been approved under section 103(e)(4) of this title prior to the date of enactment of the Federal Aid to Transportation Act of 1975, the unobligated apportionments for the Interstate System in that State on the date of enactment of the Federal Aid to Transportation Act of 1975 shall be reduced in the proportion that the unobligated portion of the sum made available for substitute projects bears to the Federal share of the total cost of all interstate routes in that State as reflected in the latest cost estimate approved by the Congress less any reduction in the interstate apportionment attributable to the Federal share of any substitute project made prior to the enactment of the Federal Aid to Transportation Act of 1975. Funds available for expenditure to carry out the purposes of this paragraph shall be supplementary to and not in substitution for funds authorized and available for obligation pursuant to the Urban Mass Transportation Act of 1964, as amended.".

(f) Section 103(g) is amended to read as follows:

"(g) On October 1, 1977, the Secretary shall remove from designation as a part of the Interstate System each segment of such system which he finds is not essential to completion of a unified and connected Interstate System and for which a State has not notified the Secretary that such State intends either to construct such segment or to request withdrawal of such segment as permitted under subsection (e) (2) or (e)(4) of this section. The notification by the State must include a schedule for the expenditure of funds for the completion of construction of such segment or alternative segment or a schedule for the request for withdrawal of such segment, and sufficient assurances satisfactory to the Secretary that such schedule will be met, or the segment shall be removed from designation as a part of the Interstate System. No segment of the Interstate System removed under the authority of this subsection shall thereafter be designated as a part of the Interstate System except as the Secretary finds necessary in the interest of national defense or for other reasons of national interest.".

INTERSTATE SYSTEM

SEC. 108. (a) Section 103(e)(4) of title 23, United States Code, is amended to read as follows:

"(4) Upon the joint request of a State Governor and the local governments concerned, the Secretary may withdraw his approval of any route or portion thereof on the Interstate System which is within an urbanized area and which was selected and approved in accordance with this title, if he determines that such route or portion thereof is not essential to completion of a unified and connected Interstate System and if he receives assurances that the State does not intend to construct a toll road in the traffic corridor which would be served by the route or portion thereof. When the Secretary withdraws his approval under this paragraph, a sum equal to the Federal share of the cost to complete the withdrawn route or portion thereof, as that cost is included in the latest Interstate System cost estimate approved by Congress, subject to increase or decrease, as determined by the Secretary based on changes in construction costs of the withdrawn route or portion thereof as of the date of enactment of the Federal-Aid Highway Act of 1975 or the date of approval of each substitute project under this paragraph, whichever is later, and in accordance with the design of the route or portion thereof that is the basis of the latest cost estimate, shall be available to the Secretary to incur obligations for the Federal share of either public mass transit projects involving the construction of fixed rail facilities or the purchase of passenger equipment including rolling stock, for any mode of mass transit, or both, or projects authorized under any highway assistance program under section 103 of this title; or both, which will serve the urbanized area from which the Interstate route or portion thereof was withdrawn, which are selected by the responsible local officials of the urbanized area, and which are submitted by the Governor of the State in which the withdrawn route was located. Approval by the Secretary of the plans, specifications, and estimates for a substitute project shall be deemed to be a contractual obligation of the Federal Government. The Federal share of the substitute projects shall be determined in accordance with the provisions of section 120 of this title applicable to the highway program of which the substitute project is a part, except that in the case of mass transit projects, the Federal share shall be that specified in section 4 of the Urban Mass Transportation Act of 1964, as amended. The sums available for obligation shall remain available until obligated. The sums obligated for mass transit projects shall become part of, and be administered through, the Urban Mass Transportation Fund. There are authorized to be appropriated for liquidation of the obligations incurred under this paragraph such sums as may be necessary out of the general fund of the Treasury. Unobligated apportionments for the Interstate System in any State where a withdrawal is approved under this paragraph shall, on the date of such approval, be reduced in the proportion that the Federal share of the cost of the withdrawn route or portion thereof bears to the Federal share of the total of all Interstate routes in that State as reflected in the latest cost estimate approved by the Congress. In any State where the withdrawal of an Interstate route or portion thereof has been approved under section 103(e)(4) of this title prior to the date of enactment of the Federal-Aid Highway Act of 1975, the unobligated apportionments for the Interstate System in that State on the date of enactment of the Federal-Aid Highway Act of 1975 shall be reduced in the proportion that the Federal share of the cost to complete such route or portion thereof, as shown on the latest cost estimate approved by Congress prior to such approval of withdrawal, bears to the Federal share of the cost of all Interstate routes in that State, as shown on such cost estimate, except that the amount of such proportional reduction shall be credited with the amount of any reduction in such State's Interstate apportionment which was attributable to the Federal share of any substitute project approved under this paragraph prior to enactment of said Federal-Aid Highway Act. Funds available for expenditure to carry out the purposes of this paragraph shall be supplementary to and not in substitution for funds authorized and available for obligation pursuant to the Urban Mass Transportation Act of 1964, as amended. The provisions of this paragraph as amended by the Federal-Aid Highway Act of 1975, shall be effective as of August 13, 1973.".

(b) Section 103(e)(4) of title 23, United States Code, is further amended by adding the following sentence at the end thereof: "In the event a withdrawal of approval is accepted pursuant to this section, the State shall not be required to refund to the Highway Trust Fund any sums previously paid to the State for the withdrawn route or portion of the Interstate System as long as said sums were applied to a transportation project permissible under this title.".

APPORTIONMENT

SEC. 109. (a) Section 104(a) is amended to read as follows:

"(a) Whenever an apportionment or allocation is made of any of the sums authorized to be appropriated for expenditure for Federal-aid programs, the Secretary shall deduct a sum, in such amount, not to exceed 3¾ per centum of all sums so authorized, as the Secretary may deem necessary for administering the provisions of law to be financed from appropriations for Federal-aid programs and for carrying out the research authorized by section 307 of this title. In making such determination, the Secretary shall take into account the unexpended balance of any sums deducted for such purposes in prior years. The sum so deducted shall be available for expenditure from the unexpended balance of any appropriation made at any time for expenditure for Federal-aid programs until such sum has been expended.".

(b)(1) Section 104(b) is amended by

striking out everything down through "following manner:" and inserting in lieu thereof the following:

"(b) On October 1 of each fiscal year the Secretary, after making the deduction authorized by subsection (a) of this section, shall apportion the remainder of the sums authorized to be appropriated for expenditure for Federal aid to transportation for that fiscal year among the several States and urbanized areas in the following manner:".

(2) Section 104(b)(1) is amended by striking out "(1) For the Federal-aid primary system:" and inserting in lieu thereof "(1) For the rural transportation assistance program:" and by striking out "of rural areas" each time it appears and inserting in lieu thereof "outside of urbanized areas".

(3) Section 104(b)(3) is amended to read as follows:

"(3) For the urban transportation assistance program:

"In the ratio which the population of each urbanized area or part thereof, in each State as designated by the Bureau of the Census, bears to the total population of all urbanized areas in all the States as shown by the latest available Federal census. No State shall receive less than one-half of 1 per centum of the total amount apportioned each fiscal year.".

(4) Paragraphs (4), (5), and (6) of section 104(b) are repealed and a new paragraph (4) is inserted to read as follows:

"(4) For the Interstate System for the fiscal years 1977 through 1980:

"(a) One-half in the ratio which the estimated Federal share of the cost of completing the Interstate System in each State bears to the sum of the estimated Federal share of the cost of completing the Interstate System in all of the States; and (B) one-half in the ratio which the estimated Federal share of the cost of completing routes on the Interstate System in each State determined by the Secretary to be of national significance and essential for connectivity of the Interstate System bears to the sum of the estimated Federal share of the cost of completing such routes in all of the States. Sums apportioned on the basis of the cost of completing routes determined by the Secretary to be of national significance and essential for connectivity of the Interstate System shall be available for expenditure only for such routes. The Secretary, in cooperation with the State highway agencies, shall transmit to the Senate and House of Representatives within six months of the enactment of this Act a detailed estimate of the cost of completing the Interstate System as then designated, after taking into account all previous apportionments made under this chapter. Such estimate shall identify those routes determined by the Secretary to be of national significance and essential for connectivity of the Interstate System and shall be based on rules and standards of uniform applicability to all of the States. Upon approval of the estimate by the Congress, the Secretary shall use the Federal share of the approved estimate in making apportionments for the fiscal years 1977 and 1978. The Secretary shall make a final revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this chapter in the same manner as stated above, and transmit the same to the Senate and the House of Representatives by January 15, 1978. Upon the approval of the estimate by the Congress, the Secretary shall use the Federal share of the approved estimate in making apportionments for the fiscal years 1979 and 1980."

(c) Section 104(c) is amended to read as follows:

"(c) If requested by the Governor of the State and approved by the Secretary as being in the public interest, an amount not to exceed 40 per centum of the amount apportioned in any fiscal year under section 104(b)(1), 104(b)(2), or 104(b)(3) may be transferred from the apportionment under one paragraph to the appointment under the other paragraphs. However, funds apportioned to an urbanized area having a population of two hundred thousand or more under section 150 of this title may not be so transferred without the approval of the responsible local officials of such urbanized area.".

(d) Subsection 104 (d) and (g) are repealed and subsections (e) and (f) are redesignated as subsections (d) and (e), respectively.

(e) Section 104(d) as redesignated herein is amended to read as follows:

"(d) To permit the States and designated recipients to develop adequate plans for the utilization of apportioned sums, the Secretary shall advise each State, and responsible local officials of each urbanized area which is apportioned funds under sections 104(b)(3) and 150, of the amount that will be apportioned each year under this section not later than seven months before the beginning of the fiscal year for which the sums to be apportioned are authorized.".

(f) Section 104(e), as redesignated, is amended to read as follows:

"(e)(1) On October 1 of each fiscal year, the Secretary shall set aside not to exceed 1 per centum of each apportionment made under subsection (b)(3) of this section, for the purposes of carrying out section 134 of this title.

"(2) The Secretary shall apportion these funds, set aside for each urbanized area under paragraph (1) of this subsection, to the metropolitan planning organization corresponding to such urbanized area that has been designated by the State as responsible for carrying out the provisions of section 134.

"(3) The Secretary shall not require that these funds be matched in accordance with section 120 of this title.".

SEC. 110. (a) Section 105(a) is amended by striking out the first sentence and inserting in lieu thereof the following: "As soon as practicable after the apportionments for the Federal-aid programs have been made for any fiscal year, the State highway agency of any State and designated recipient of urban transportation assistance program funds desiring to avail themselves of the benefits of this chapter shall each submit to the Secretary for his approval a program or programs of proposed projects for the utilization of the funds apportioned to it under section 104.".

(b) Subsection (d) of section 105 is amended to read as follows:

"(d) In approving programs for projects in an urbanized area of 200,000 population or more on the Federal-aid urban system, the Secretary shall require that when a State government did not pay 50 or more per centum of the non-Federal share of the approved program of projects in such urbanized area for the preceding fiscal year, such projects for the current fiscal year shall be selected by the appropriate local officials of such urbanized area, and that when a State government did pay 50 or more per centum of the non-Federal share of the approved program of projects in such an urbanized area for the preceding fiscal year, such projects for the current fiscal year shall be selected by the appropriate local officials of such urbanized area with the concurrence of the State highway department of each State and, in all urbanized areas, in accordance with the planning process required pursuant to section 134 of this title. In approving programs for projects on the Federal-aid urban system in areas other than urbanized areas having a population of 200,000 or more, the Secretary shall require that such projects be selected by the appropriate local officials with the concurrence of the State highway department of each State.".

(c) Section 105(g) is amended by striking out the first sentence and inserting in lieu thereof the following: "In preparing programs to be submitted in accordance with subsection (a) of this section, the State highway agencies or designated recipients of urban transportation assistance funds shall give consideration to projects providing direct and convenient access to public airports and public ports of water transportation and in approving such programs the Secretary shall give consideration to such projects.".

PLANS, SPECIFICATIONS AND ESTIMATES

SEC. 111. Section 106 is amended to read as follows:

"§ 106. Plans, specifications, and estimates.

"(a) Except as provided in section 117 of this title, the State highway agency or designated recipient of urban transportation assistance funds shall submit to the Secretary for his approval, as soon as practicable after program approval, such surveys, plans, specifications, and estimates for each proposed project included in that State's or designated recipient's approved program as the Secretary may require. The Secretary shall act upon such surveys, plans, specifications, and estimates as soon as practicable after the same have been submitted, and his approval of any such project shall be deemed a contractual obligation of the Federal Government for payment of its proportional contribution thereto. In taking such action, the Secretary shall be guided by the provisions of section 109 of this title.

"(b) In addition to the approval required under subsection (a) of this section, proposed specifications for projects for construction on (1) the Federal-aid secondary system, except in States where all public roads and highways are under control and supervision of the State highway agency, and (2) the Federal-aid urban system, shall be determined by appropriate local officials in accordance with the planning process required pursuant to section 134 of this title.

"(c) Items included in any such estimate for construction engineering shall not exceed 10 per centum of the total estimated cost of a project financed with Federal Aid to Transportation funds, after excluding from such total estimated cost, the estimated costs of rights-of-way, preliminary engineering, and construction engineering. However, this limitation shall be 15 per centum in any State with respect to which the Secretary finds such higher limitation to be necessary.

"(d) In such cases as the Secretary determines advisable, plans, specifications, and estimates for proposed projects to be constructed with Federal-aid funds shall be accompanied by a value engineering or other cost reduction analysis.".

ADVANCE ACQUISITION OF RIGHTS-OF-WAY

SEC. 12. Section 108 is amended as follows:

(1) Subsection (a) is amended by inserting after the words "State highway department" each time such words appear in such subsection the words "or designated recipient of urban transportation assistance funds" and by amending the last sentence of subsection (a) by inserting after "request is made" the words ", unless a longer period is determined to be reasonable by the Secretary".

(2) Subsection (c)(2) is amended to read as follows:

"(2) For the purpose of acquiring rights-of-way for future construction of projects authorized under this title and for making payments for the moving or relocation of persons, businesses, farms, or other existing uses of real property caused by the acquisition of such rights-of-way, in addition to

the authority contained in subsection (a) of this section, the Secretary, upon request of a State highway agency or designated recipient of urban transportation assistance funds, is authorized to advance funds, without interest, to the State or designated recipient of urban transportation funds from amounts available in the right-of-way revolving funds in accordance with rules and regulations prescribed by the Secretary. Funds so advanced may be used to pay the entire costs of projects for the acquisition of rights-of-way, including the net cost to the State or designated recipient of urban transportation assistance funds of property management, if any, and related moving and relocation payments made pursuant to any Federal law.".

(3) The first sentence of subsection (c)(3) is amended by striking out "earlier" and inserting in lieu thereof "later". Subsection (c)(3) is further amended by adding after "State" the words "or designated recipient of urban transportation assistance funds".

STANDARDS

SEC. 113. Section 109 is amended as follows:

(1) Subsection (a) is amended by striking out "on any Federal-aid system" and by deleting the period after "locality" and inserting in lieu thereof: ", except the design and construction standards for the Federal-aid urban system shall be those approved by the Secretary in accordance with the State highway agency and responsible local officials. Such standards, as applied to the Federal-aid urban system, shall reflect the lower speed capacity of the system and the need for flexibility in alinement in urbanized areas. The Federal-aid urban standards shall be issued within one year of the enactment of this Act.".

(2) Subsection (e) is amended by striking out "Federal-aid highway, or highway affected under chapter 2 of this title," and inserting in lieu thereof "transportation assisted under chapter 1 or 2 of this title".

(3) The first sentence of subsection (i) is amended to read as follows: "The Secretary, after consultation with appropriate Federal, State, and local officials, shall develop and promulgate standards for highway noise levels compatible with different land uses, which take into account the degree of access to the highway, and after July 1, 1972, shall not approve plans and specifications for any proposed project for which location approval has not yet been secured unless he determines that such plans and specifications include adequate measures to implement the appropriate noise level standards.".

PROJECT AGREEMENTS

SEC. 114. Section 110(a) is amended as follows:

(1) By inserting in the first sentence after "highway department" the following: "or designated recipients of urban transportation assistance funds, whichever is appropriate,".

(2) By striking out in the second sentence everything after "for" the first time it appears and inserting in lieu thereof the following: "the State's or designated recipient's pro rata share of the cost of construction of such project and for the maintenance thereof after completion of construction.".

LETTING OF CONTRACTS

SEC. 115. (a) The first sentence of section 112(a) is amended by striking out "or" and serting in lieu thereof a comma, and by inserting after "supervision," the words "or by designated receipts of urban transportation assistance funds.".

(b) Section 112(e) is amended by striking out "on the Federal-aid system".

CONSTRUCTION

SEC. 116. The first sentence of section 114 (a) is amended by striking out "or" the second time it appears and inserting in lieu thereof a comma, and by inserting after "supervision" the words "or by designated recipients of urban transportation assistance funds". Such section is further amended in the second and third sentences by adding after the words "State highway department", each time such words occur, the words "or designated recipients of urban transportation assistance funds".

MAINTENANCE

SEC. 117. Section 116 is amended by inserting after the words "State Highway department", each time such words occur, the words "or designated recipient of urban transportation assistance funds.".

CERTIFICATION ACCEPTANCE

SEC. 118. (a) Section 117(a) is amended to read as follows:

"(a) The Secretary may discharge any of his responsibilities under any Federal law or Executive order (including implementing regulations and procedures) relative to projects under this title, except projects on the Interstate System, upon the request of any State, by accepting a certification by the Governor of the performance of such responsibilities, if the Secretary finds that such responsibilities will be carried out in accordance with State laws, regulations, directives, and standards which will accomplish the policies and objectives contained in, or issued by the Secretary or other appropriate Federal officials pursuant to applicable Federal laws, and in addition, the State has an agency suitably equipped and organized to carry out to the satisfaction of the Secretary the duties under such applicable Federal laws.".

(b) Section 117(b) is amended by inserting after "final inspection" the words "or review".

(c) Section 117(e) is amended to read as follows:

"(e) Nothing in this section shall affect or discharge any responsibility or obligation of the Secretary under the National Environmental Policy Act of 1969, section 4(f) of the Department of Transportation Act, or under any Federal law or Executive order relating to civil rights or equal employment opportunity.".

AVAILABILITY OF SUMS APPORTIONED

SEC. 119. (a) Section 118(a) is amended by deleting "to each State highway department" and by striking out "to each Federal-aid system or part thereof" and inserting in lieu thereof "for Federal aid for transportation" and by striking out "expenditure" and inserting in lieu thereof "obligation".

(b)(1) The first sentence of section 118(b) is amended to read as follows:

"(b) Such sums shall continue to be available for obligation for the appropriate Federal-aid program or part thereof for a period of two years after the close of the fiscal year for which such sums are authorized and any amounts so apportioned remaining unobligated at the end of such periods shall lapse, except that any amount apportioned to the States for the Interstate System under section 104(b) of this title remaining unobligated at the end of the period during which it is available under this section shall lapse and may be reapportioned among those States which can obligate such sums expeditiously for the completion of routes on the Interstate System determined by the Secretary to be of national significance and essential for connectivity of the Interstate System.".

(2) The second sentence of section 118(b) is amended by striking out "expended" and inserting in lieu thereof "obligated" and by striking out everything after "covered by" down through the period and inserting in lieu thereof "project approvals under section 106 of this title."

(3) The third sentence of section 118(b) is amended by striking out "expenditure" and inserting in lieu thereof "obligation".

PREVIOUS AUTHORIZATIONS

SEC. 120. (a) Chapter 1 of this title is amended by adding immediately after section 118 the following new section:

"§ 119. Previous authorizations.

"The provisions of this title apply to all unappropriated authorizations contained in prior Acts, and also to all unexpended appropriations heretofore made, providing for the expenditure of Federal funds upon the Federal-aid systems.".

(b) The analysis of chapter 1 is amended by striking out "119. Administration of Federal aid for highways in Alaska.". and inserting in lieu thereof, "119. Previous authorization.".

PAYMENT FOR CONSTRUCTION

SEC. 121. (a) The section heading of section 121 is amended to read "Payment for construction.".

(b) Section 121(a) is amended by inserting after "State" the following: "or designated recipient of urban transportation assistance funds".

(c) Section 121(b) is amended by inserting after "State" the following: "or designated recipient of urban transportation assistance funds".

(d) Section 121(c) is amended by deleting "located on a Federal-aid system and" and by inserting after "State" the following: "or designated recipient of urban transportation assistance funds".

(e) Section 121(d) is amended to read as follows:

"(d) In making payments pursuant to this section, the Secretary shall be bound by the limitations with respect to the permissible amounts of such payments contained in sections 120 and 130 of this title. Payments for construction engineering on any project financed with Federal aid to transportation funds shall not exceed 10 per centum of the Federal share of the cost of construction of such project and excluding from the cost of construction the costs of rights-of-way, preliminary engineering, and construction engineering. However, this limitation shall be 15 per centum in any State or urbanized area with respect to which the Secretary finds such higher limitation to be necessary.".

EMERGENCY RELIEF

SEC. 122. (a) Section 125(a) is amended to read as follows:

"(a) An emergency fund is authorized for expenditure by the Secretary, subject to the provisions of this section and section 120 of this title for (1) the repair or reconstruction of highways, roads, trails, or other projects funded under this tile, which he finds have suffered serious damage as the result of natural disaster over a wide area such as by floods, hurricanes, tidal waves, earthquakes, severe storms, or landslides, and (2) the repair or reconstruction of bridges which have been permanently closed to all vehicular traffic by the State after December 31, 1967, and prior to December 31, 1975, because of imminent danger of collapse due to structural deficiencies or physical deterioration. Subject to the following limitations, there are hereby authorized to be appropriated such sums as may be necessary to establish the fund authorized by this section and to replenish it on an annual basis. Not more than $150,000,000 is authorized to be expended in any one fiscal year to carry out the provisions of this section, except that, if in any fiscal year the total of all expenditures under this section is less than the amount authorized to be expended in such fiscal year, the unexpended balance of such amount shall remain available for expenditure during the next two succeeding fiscal years in addition to amounts otherwise available to carry out this section in such years. Pending such appropriation or replenishment the Secretary may expend from any funds heretofore or hereafter appropriated for expendi-

ture in accordance with this title, including existing Federal-aid appropriations, such sums as may be necessary for the immediate prosecution of the work herein authorized, such appropriations to be reimbursed from the appropriations herein authorized when made.".

(b) Section 125(b) is amended (1) by striking out from the first sentence "highways on the Federal-aid highway systems, including the Interstate System," and inserting in lieu thereof "any public road", and by adding after the last sentence "If the President declares that a major disaster exists, the concurrence of the Secretary is not required.".

(c) Section 125 is amended by adding at the end thereof the following new subsection:

"(d) Action taken or assistance provided under this section that has the effect of restoring facilities substantially as they existed prior to the disaster shall not be deemed a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969.".

REPEAL OF SECTION 126

SEC. 123. (a) Section 126 is repealed.

(b) The item in the analysis of chapter 1 relating to section 126, diversion, is repealed.

FERRY OPERATIONS

Sec. 124. Section 129(g)(5) is amended to read as follows:

"(5) Such ferry may be operated only within the State (including the islands of Hawaii and the Commonwealth of Puerto Rico) or between adjoining States. Except with respect to operations between the islands which comprise the State of Hawaii and the Commonwealth of Puerto Rico and operations between the States of Alaska and Washington, including stops at approximate points in the Dominion of Canada, or between any two points within the State of Alaska, no part of such a ferry operation shall be in any foreign or international waters.".

TRANSPORTATION PLANNING

SEC. 125. (a) The section heading of section 134 is amended by striking out "in certain urban areas".

(b) Section 134(a) is amended to read as follows:

"(a) It is declared to be in the national interest to encourage and promote the development of transportation system embracing various modes of transport in a manner that will conserve the Nation's energy resources, encourage more efficient use of the Nation's highway and transit facilities, and serve the States and local communities efficiently and effectively. To accomplish these objectives the Secretary shall, pursuant to such regulations as he deems necessary, cooperate with the States, as authorized in the title in the development of short-range and long-range highway plans and programs which are properly coordinated with plans for improvements in other affected forms of transportation and which are formulated with due consideration to their probable effect on the future development of urbanized areas and to the need to conserve energy and obtain a more effective utilization of existing urban transportation facilities. The development of projects in urbanized areas shall be based on a continuing cooperative and comprehensive planning process covering all modes of surface transportation. This planning process is to be carried on between States and the governing bodies of local communities, with the full cooperation of transportation agencies responsible for implementing significant elements of the long-range plan and program. After July 1, 1965, the Secretary may not approve under section 105 of this title any program for projects in any urbanized area unless he finds that such projects are based tion planning process carried on cooperatively by States and local communities and on a continuing comprehensive transporta- that the plans and programs conform with the objectives of this section. No highway project may be constructed in any urbanized area unless the responsible local officials of the urbanized area in which the project is located have been consulted and their views considered with respect to the corridor, the location, and the design of the project.".

(c) Section 134 is amended by adding at the end thereof the following new subsection:

"(c) On January 15, 1979, and every four years thereafter, the Secretary shall submit to the Congress a report assessing the performance of the Nation's transportation system and evaluating alternatives for achieving future improvements in the performance of that system.".

(d) The analysis of chapter 1 is amended by striking

"134. Transportation planning in certain urban areas."

and inserting in lieu thereof

"134. Transportation planning.".

TRAFFIC OPERATIONS IMPROVEMENT PROGRAMS

SEC. 126. (a) Section 135 is amended to read as follows:

"§ 135. Traffic operations improvement programs.

"(a) The Congress hereby finds and declares it to be in the national interest that each State shall have a continuing program designed to reduce traffic congestion and facilitate the flow of traffic.

"(b) The Secretary may approve under this section any project for improvements which directly facilitate and control traffic flow.".

(b) The analysis of chapter 1 is amended by striking out

"135. Urban area traffic operations improvement programs."

and inserting in lieu thereof

"135. Traffic operations improvement programs.".

EQUAL EMPLOYMENT OPPORTUNITY

SEC. 127. Section 140(b) is amended by striking out the second sentence and by inserting in lieu thereof the following new sentence: "Whenever apportionments are made under section 104(b) of this title, the Secretary shall deduct such sums as he may deem necessary, not to exceed $10,000,000 per fiscal year, for the administration of this subsection.".

PUBLIC TRANSPORTATION

SEC. 128. (a) Section 142(a)(1) is amended by inserting at the end thereof the following new sentence: "Unless otherwise approved by the Secretary, in the event fees are charged for use of any parking facility constructed under this section, the rate thereof shall not be in excess of that required for maintenance and operation of the facility (including compensation to any person operating the facility).".

(b) Paragraph (3) of subsection (e) of section 142 is amended to read as follows:

"(3) The Federal share payable on account of projects authorized by subsection (a) of this section shall be that provided by subsection (a) of section 4 of the Urban Mass Transportation Act of 1964, as amended.".

(c) Subsection (k) of section 142 is repealed.

FEDERAL TRANSPORTATION ROLE

SEC. 129. (a) Section 145 is amended to read as follows:

"§ 145. Federal transportation role.

"The authorization of the appropriation of Federal funds or their availability for expenditure under this chapter shall in no way infringe on the rights of States or responsible local officials to determine which projects shall be federally financed. The provisions of this chapter provide for a federally assisted transportation program.".

(b) The analysis of chapter 1 is amended by striking out

"145. Federal-State relationship."

and inserting in lieu thereof

"145. Federal transportation role.".

ALLOCATION OF FUNDS FOR THE URBAN TRANSPORTATION ASSISTANCE PROGRAM

SEC. 130. (a) Section 150 is amended to read as follows:

"§ 150. ALLOCATION OF FUNDS FOR THE URBAN TRANSPORTATION ASSISTANCE PROGRAM.

"The funds apportioned to any urbanized area under paragraph (3) of subsection (b) of section 104 are attributable to that urbanized area and shall be made available for expenditure within such urbanized areas for projects in programs approved under subsection (d) of section 105 of this title in a fair and equitable manner as determined by the responsible local officials, with the approval of the Secretary. The responsible local officials, with the concurrence of the Secretary, shall designate recipients to receive and dispense funds apportioned under paragraph (3) of subsection (b) of section 104 that are to be used for highway projects under this title. Funds apportioned under paragraph (3) of subsection (b) of section 104 that are to be used for public transportation programs authorized by section 142 of this title shall be received and dispensed by recipients determined under the procedures of section 5 of the Urban Mass Transportation Act of 1964, as amended.".

(b) The analysis of chapter 1 is amended by striking out

"150. Allocation of funds for urban trans-

and inserting in lieu thereof

"150. Allocation of funds for urban transportation assistance program.".

FOREST HIGHWAYS

SEC. 131. (a) Section 202(a) is amended by striking out everything down through "for such fiscal year" and by inserting in lieu thereof "(a) Whenever an apportionment is made under section 104(b) of this title of the sums authorized to be appropriated for expenditure for the rural transportation assistance program for fiscal years 1977 through 1980, the Secretary shall deduct therefrom such sums as he may deem necessary, not to exceed $34,000,000 for each fiscal year, for the construction and maintenance of forest highways. Thereupon, the Secretary shall apportion the deducted sums".

(b) Sections 204 (d) and (e) are amended by striking out "appropriations" and inserting in lieu thereof "funds available".

TERRITORIAL HIGHWAYS

SEC. 132. (a) Section 215(c) is amended by striking out "No part of the appropriations authorized under this section" and inserting in lieu thereof "Whenever an apportionment is made under section 104(b) of this title of the sums authorized to be appropriated for expenditures for the rural transportation assistance program for fiscal years 1977 through 1980, the Secretary shall deduct therefrom such sums as he may deem necessary, not to exceed $5,000,000, $3,000,000, and $2,000,000 to carry out this section for the Virgin Islands, Guam, and American Samoa, respectively. None of those funds".

(b) Section 215(d) is amended by striking out each time they appear the words "sums authorized to be appropriated for each fiscal year for carrying out subsection (a) of" and by inserting in their place "funds available for each fiscal year for".

(c) Sections 215 (e) and (f) are amended by striking out "authorized to be appropriated" and inserting in lieu thereof "available".

RESEARCH AND PLANNING

SEC. 133. (a) The text of section 307 is amended to read as follows:

"(a) The Secretary is authorized in his discretion to engage in research on (1) all

phases of highway construction, reconstruction, modernization, development, design, maintenance, safety, economics, financing, and traffic conditions, (2) truck freight and bus passenger terminal facilities and related vehicle design features, including size and weight standards, (3) highway transportation of hazardous materials, (4) economic, social, environmental, and other community impacts of highway transportation, (5) reducing the energy demand of highway transportation, and (6) the effects of State laws on the subjects referred to in clauses (1) through (5). The Secretary is authorized to test, develop, conduct feasibility studies, prepare plans for operational demonstrations or applications, or assist in the testing and developing of any material, invention, patented article, process or new technological developments. The Secretary may publish the results of such research. The Secretary may carry out the authority granted hereby, either independently, or in cooperation with any other branch of the Government, State agency, authority, association, institution, corporation (profit or nonprofit), or any other organization, or person. The Secretary is also authorized, acting independently or in cooperation with other Federal departments, agencies, or instrumentalities, to make grants for research fellowships for any purpose for which research is otherwise authorized by this section.

"(b) The funds required to carry out this section shall be derived from the administrative and research funds authorized by section 104 of this title, funds authorized to carry out section 403 of this title, and such funds as may be deposited in a special account with the Secretary of the Treasury for such purposes by any cooperating organization or person. The provisions of section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), shall not be applicable to contracts or agreements made under the authority of this section.

"(c)(1) Not to exceed 2 per centum of the sums apportioned for each fiscal year to any State or urbanized area under section 104(b) of this title shall be available for expenditure for engineering and economic surveys and investigations, planning and policy development with respect to future transportation programs and systems and planning for the financing thereof, studies of the economy, safety, and convenience of transportation service and the desirable regulation and equitable taxation thereof, research and development necessary in connection with the planning, design, construction, and maintenance of transportation systems and the regulation and taxation of their use, and the collection of transportation system data, the monitoring of transportation system performance, and the reporting of such data to the Secretary for use in the development of national transportation policy and program evaluation.

"(2) In addition to the percentage provided in paragraph (1) of this subsection, not to exceed one-half of 1 per centum of the sums apportioned for each fiscal year under paragraphs (1), (2), and (3) of section 104(b) of this title shall be available for expenditure upon request of the State highway agency for the purposes enumerated in paragraph (1) of this subsection, including demonstration projects in connection with such purposes.

"(3) Sums made available under paragraphs (1) and (2) of this subsection shall be matched by the State in accordance with section 120 of this title unless the Secretary determines that the interests of the Federal aid to transportation program would be better served without such matching.".

RURAL HIGHWAY PUBLIC TRANSPORTATION DEMONSTRATION PROGRAM

SEC. 134. Section 147(a) of the Federal-Aid Highway Act of 1973, as amended, is amended by striking "of which $50,000,000 shall be out of the Highway Trust Fund," from the first sentence and "from the General Fund" from the second sentence.

BICYCLE TRANSPORTATION AND PEDESTRIAN WALKWAYS

SEC. 135. Section 217(e) of title 23, United States Code, is amended by striking out "$40,000,000" and inserting in lieu thereof "$45,000,000", and by striking out "$2,000,00" and inserting in lieu thereof "$2,500,000".

DEMONSTRATION PROJECTS—RAILROAD HIGHWAY CROSSINGS

SEC. 136. (a) Section 163 of the Federal-Aid Highway Act of 1973 (Public Law 93-87) is amended by inserting immediately after subsection (h) the following new subsections:

"(i) The Secretary of Transportation shall carry out a demonstration project in Metairie, Jefferson Parish, Louisiana, for the relocation or grade separation of rail lines whichever he deems most feasible in order to eliminate certain grade level railroad highway crossings.

"(j) The Secretary of Transportation shall enter into such arrangements as may be necessary to carry out a demonstration project in Augusta, Georgia, for the relocation of railroad lines and for the purpose of eliminating highway railroad grade crossings.".

"(k) The Secretary of Transportation shall enter into such arrangements as may be necessary to carry out a demonstration project in Pine Bluff, Arkansas, for the relocation of railroad lines for the purpose of eliminating highway railroad grade crossings.".

"(l) The Secretary of Transportation shall carry out a demonstration project in Sherman, Texas, for the relocation of rail lines in order to eliminate the ground level railroad crossing at the crossing of the Southern Pacific and Frisco Railroads with Grand Avenue-Roberts Road."

(b) Existing subsections (i), (j), (k), and (l) of section 163 of the Federal-Aid Highway Act of 1973 are relettered as (m), (n), (o), and (p), respectively, including any references to such subsections.

(c) Subsection (o) (as relettered by subsection (b) of this section) of section 163 of the Federal-Aid Highway Act of 1973 is amended by striking out "1976, except that" and inserting in lieu thereof the following: "1976, $6,250,000, for the period beginning July 1, 1976, and ending September 30, 1976, $26,400,000 for the fiscal year ending September 30, 1977, and $51,400,000 for . . .

ACCELERATION OF PROJECTS

SEC. 137. The Secretary of Transportation shall carry out a project to demonstrate the feasibility of reducing the time required from the time of request for project approval through the completion of construction of highway projects in areas that, as a result of recent or imminent change, including but not limited to change in population or traffic flow resulting from the construction of Federal projects, show a need to construct such projects to relieve such areas from the impact of such change. There is authorized to be appropriated out of the Highway Trust Fund to carry out such project not to exceed $25,000,000.

MULTIMODAL CONCEPT

SEC. 138. Section 134 of the Federal Aid Highway Act of 1973 is amended by inserting "(a)" immediately following "SEC. 143." and by adding the following new subsection at the end thereof:

"(b) The Secretary of Transportation is authorized and directed to study the feasibility of developing a multimodal concept along the route described in paragraph (1) of subsection (a) of this section, which study shall include an analysis of the environmental impact of such multimodal concept. The Secretary shall report to Congress the results of such a study not later than July 1, 1977.".

RIDE-SHARING PROGRAMS

SEC. 139. (a) For the purposes of this section—

(1) the term "ride-sharing" means the use of a motor vehicle with a seating capacity designed to transport at least eight and no more than fifteen individuals, for the transportation of a group of individuals on a regularly scheduled basis;

(2) the term "recipient" means a municipality or other local government; and

(3) the term "Secretary" means the Secretary of Transportation.

(b) There are authorized to be appropriated, out of the Highway Trust Fund, $20,000,000 for the fiscal year ending September 30, 1977, $25,000,000 for the fiscal year ending September 30, 1978, and $30,000,000 for the fiscal year ending September 30, 1979, for the purpose of carrying out this section.

(c) The Secretary shall apportion the funds authorized to be appropriated for each of the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979, the sums authorized to be appropriated for such periods for expenditures for ride-sharing projects, using the following formula: three-quarters of such funds apportioned in the ratio which the population of each State bears to the population of all of the States as shown by the latest available Federal census, and one-quarter of such funds apportioned in the ratio which the public road mileage in each State bears to the total public road mileage in all of the States. No State shall receive less than one-half of 1 per centum of the total amount apportioned each fiscal year.

(d) On or before January 1 preceding the commencement of each fiscal year, the Secretary shall certify to each State highway department the sums which he has apportioned hereunder to such State for such fiscal year, and also the sums which he has deducted for administration and research pursuant to subsection (h) of this section.

(e) On and after the date that the Secretary has certified to each State highway department the sums apportioned to each pursuant to an authorization under this section, such sums shall be available for expenditure under the provisions of this section.

(f) Sums apportioned to a State shall continue to be available for expenditure in that State for the appropriate ride-sharing program for a period of two years after the close of the fiscal year for which sums are authorized, and any amounts so apportioned remaining unexpended at the end of such period shall be reapportioned among the other States in accordance with the provisions of subsection (c) of this section. Such sums for any fiscal year shall be deemed to be expended if an amount equal to the total of the sums apportioned to the State for such fiscal year and previous fiscal years is covered by formal project agreements providing for the expenditure of funds authorized by each Act which contains provisions authorizing the appropriation of funds for ride-sharing programs. Any ride-sharing program funds released by the payment of the final voucher or by the modification of the formal program agreement shall be credited to the same class of funds previously apportioned to the State and be immediately available for expenditure.

(g) The total payments to any State shall not at any time during a current fiscal year exceed the total of all apportionments to such State in accordance with subsection (c) of this section for such fiscal year and all preceding fiscal years.

(h) Whenever an apportionment is made of sums authorized to be appropriated for expenditure for a ride-sharing program, the Secretary shall deduct a sum, in such amount not to exceed 2 per centum of all

sums so authorized, as the Secretary may deem necessary for administering the provisions of this section.

(i) As soon as practicable after the apportionments for ride-sharing projects have been made for any fiscal year, the State highway department of any State desiring to avail itself of the benefits of this section shall submit to the Secretary for his approval a program or programs of proposed projects for ride-sharing for senior citizens and handicapped persons, workers, and developmental projects to encourage ride-sharing in rural and in urban areas. The Secretary shall act upon programs submitted to him as soon as practicable after the same have been submitted. The Secretary may approve a program in whole or in part. The Secretary shall require that such a project be selected by the State highway department and the recipient of the grant in cooperation with each other.

(j) The State highway department shall submit to the Secretary for his approval, as soon as practicable after program approval, such estimates of both acquisition and operating costs for each project included in an approved program as the Secretary may require. The Secretary shall act upon such estimates as soon as practicable after they have been submitted, and his approval of any such project shall be deemed a contractual obligation of the Federal Government for the payment of its Federal share for such project.

(k) The Secretary is authorized to prescribe such regulations as may be necessary to carry out the provisions of this section, except that any motor vehicle acquired by a recipient of a grant shall be publicly owned during its useful life.

(l) The Federal share of any project receiving Federal financial assistance under this section shall not exceed 80 per centum of the cost of such project, except that the Federal share of operating costs shall not exceed 50 per centum.

CAR POOLS

SEC. 140. The last sentence of subsection (d) of section 3 of the Emergency Highway Energy Conservation Act (Public Law 93-239) is hereby repealed.

USE OF TOLL RECEIPTS FOR HIGHWAY AND RAIL CROSSINGS

SEC. 141. Section 2 of the Act entitled "An Act granting the consent of Congress to the State of California to construct, maintain, and operate a bridge across the Bay of San Francisco from the Rincon Hill district in San Francisco by way of Goat Island to Oakland", approved February 20, 1931, is amended as follows:

(1) Subsection (a) is amended by striking out "heretofore enacted." and inserting in lieu thereof a period.

(2) The first sentence in subsection (b) is amended by striking out "of not to exceed two additional highway crossings and one rail transit crossing across the Bay of San Francisco and their approaches." and inserting in lieu thereof "(1) not to exceed two additional highway crossings and one rail transit crossing across the Bay of San Francisco and their approaches, and (2) any public transportation system in the vicinity of any toll bridge in the San Francisco Bay Area.".

(3) The third sentence in subsection (b) is repealed.

EXTENSION OF REPAYMENT

SEC. 142. The first sentence of section 2 of Public Law 94-30 is amended by striking out "before January 1, 1977." and inserting in lieu thereof "January 1, 1979, at a rate of 20 per centum by January 1, 1977, 30 per centum by January 1, 1978, and 50 per centum by January 1, 1979. If a State fails to make any repayment in accordance with the preceding sentence, the entire unpaid balance shall immediately become due and payable.".

TRAFFIC CONTROL SIGNALIZATION DEMONSTRATION PROJECTS

SEC. 143. (a) The Secretary of Transportation is authorized to carry out traffic control signalization demonstration projects designed to demonstrate the increased capacity of existing highways, the conservation of fuel, the decrease in traffic congestion, the improvement in air and noise quality, and the furtherance of highway safety, giving priority to those projects providing coordinated signalization of two or more intersections. Such projects can be carried out on any highway whether on or off a Federal-aid system.

(b) There is authorized to be appropriated to carry out this section out of the Highway Trust Fund, not to exceed $75,000,000 for the fiscal year ending September 30, 1977, and $75,000,000 for the fiscal year ending September 30, 1978.

Each participating State shall report to the Secretary of Transportation not later than September 30, 1977, and not later than September 30 of each year thereafter, on the progress being made in implementing this section and the effectiveness of the improvements made under it. Each report shall include an analysis and evaluation of the benefits resulting from such projects comparing an adequate time period before and after treatment in order to properly assess the benefits occurring from such traffic control signalization. The Secretary of Transportation shall submit a report to the Congress not later than January 1, 1978, on the progress being made in implementing this section and an evaluation of the benefits resulting therefrom.

CONGRESSIONAL INTENT

SEC. 144. It is the intent of Congress that in any case where a bridge is constructed, reconstructed, replaced, repaired, or otherwise altered under authority of title 23 of the United States Code or any other provision of law, such construction, reconstruction, replacement, repair, or other alteration shall, to the extent feasible, provide for reasonable access to the water traversed by such bridge. Such access shall be provided at or in the vicinity of such bridge and shall be for the purpose of permitting the public to use such water for recreation purposes.

DEMONSTRATION PROJECT

SEC. 145. The Secretary of Transportation, acting pursuant to his authority under section 6 of the Urban Mass Transportation Act of 1964, shall conduct a demonstration project in urban mass transportation for design, improvement, modification, and urban deployment of the Automated Guideway Transit system now in operation at the Dallas/Fort Worth Regional Airport. There is authorized to be appropriated to carry out this section $1,500,000 for the three-month period ending September 30, 1976, and $5,500,000 for the fiscal year ending September 30, 1977.

REPEALS

SEC. 146. (a) The following provisions are repealed on the date of enactment of this title—

(1) Section 137, Fringe and Corridor Parking Facilities.

(2) Section 217(e), Limitation on use of authorizations for bicycle transportation and pedestrian walkways.

(3) Section 3 of Public Law 89-139 (79 Stat. 578).

(b) The analysis of chapter 1 is amended by striking out—

"Section 137. Fringe and corridor parking facilities."

and by inserting in lieu thereof—

"Section 137. Repealed."

TECHNICAL AMENDMENTS

SEC. 147. Title 23, United States Code, is amended as follows:

(1) The analysis of chapter 1, section 111, is amended to read:

"111. Agreements relating to the use of and access to Interstate System rights-of-way.".

(2) The analysis of chapter 1 is amended by striking:

"113. Relocation Assistance.".

(3) The term "State highway department" is amended to read "State highway agency" each place it appears.

(4) Section 112(e) is amended by striking out "on the Federal-aid secondary system".

By Mr. HARSHA:

Page 26, line 14, strike out "(a)".

Page 26, lines 23 and 24, strike out "$4,000,000,000" each place it appears and insert in lieu thereof at each place "$3,250,000,000".

Page 27, strike out line 16, and all that follows down through and including line 15 on page 29.

Page 38, strike out line 11 down through the period on line 20 and insert in lieu thereof the following: years ending September 30, 1977, and September 30, 1978.

Page 41, line 22, after the period insert the following: "The mileage of the route or portion thereof approval of which is withdrawn under this paragraph shall be available for designation on the Interstate System in any other State in accordance with paragraph (1) of this subsection.".

Page 42, strike out lines 1 and 2 and insert in lieu thereof: "cluded in the 1972 Interstate System cost estimate set forth in table 5 of House Public Works Committee Print Numbered 92-29, as revised in House Report Numbered 92-1443, increased or decreased, as the case may be, as determined".

Page 41, line 11, strike out "(a)".

Page 44, strike out line 17 and all that follows down through and including line 25.

Page 66, strike out lines 17 and 18 and insert in lieu thereof the following:

(b) There are authorized to be appropriated $20,000,000 for the fiscal year

Strike out lines 17 through 24 on page 70, and lines 1 through 12 on page 71.

Renumber succeeding sections and all references thereto accordingly.

Page 72, line 7, strike out "$75,000,000" and insert in lieu thereof "$25,000,000".

Page 72, line 12, strike out "$75,000,000" and insert in lieu thereof "$25,000,000".

Page 77, line 10, strike out "$62,500,000" and insert in lieu thereof "$31,250,000".

Page 77, line 11, strike out "$250,000,000" and insert in lieu thereof "$125,000,000".

Page 77, line 12, strike out "$250,000,000" and insert in lieu thereof "$125,000,000".

Page 34, strike out line 22 and all that follows down through and including line 26.

Page 35, line 1, strike out "(18)" and insert "(17)".

Page 35, line 6, strike out "(19)" and insert "(18)".

Page 35, line 7, strike out "(17) or (18)" and insert "or (17)".

Page 37, after line 18, insert the following:

(d)(1) Not to exceed 10 per centum of each amount authorized in paragraphs (1) and (2) of subsection (a) of this section which is apportioned to each State in accordance with paragraphs (1), (2), (3), and (6) of subsection (b) of section 104 of title 23, United States Code, may be transferred from the apportionment under each of such paragraphs for projects for the construction, reconstruction and improvement of any off-system road (including but not limited to, the replacement of bridges, the elimination of high-hazard locations, and road side obstacles). No part of any funds apportioned under such paragraph (6) which are attributable to urbanized areas of 200,000 population or more shall be transferred under authority of this subsection without the approval of the appropriate local officials of such area.

"(2) Projects under this subsection shall be subject to all of the provisions of chapter 1 of title 23, U.S. Code applicable to highways on the Federal-aid secondary system or in the case of projects located in urbanized areas, to highways on the Federal-aid urban system, except for the requirement that these roads be on a Federal-aid system, and those other provisions determined by the Secretary to be inconsistent with this subsection. The Secretary is not authorized to determine as inconsistent with this subsection any provision relating to the obligation and availability of funds.

"(3) As used in this subsection the term "off-system road" means any toll-free road (including bridges) which road is not on any Federal-aid system and which is under the jurisdiction of and maintained by a public authority and open to public travel."

By Mr. MYERS of Pennsylvania:

Page 52, after line 4, add the following new section: Section 115(a) Section 127 of Title 23 of the United States Code is amended by striking out the following:

"twenty thousand pounds carried on any one axle, including all enforcement tolerances: or with a tandem axle weight in excess of thirty-four thousand pounds, including all enforcement tolerances: or with an overall gross weight on a group of two or more consecutive axles produced by application of the following formula:

$$W=500(LN/N-1+12N+36)$$

where W=overall gross weight on any group of two or more consecutive axles to the nearest 500 pounds, L=distance in feet between the extreme of any group of two or more consecutive axles, and N=number of axles in group under consideration, except that two consecutive sets of tandem axles may carry a gross load of 34,000 pounds each providing the overall distance between the first and last axles of such consecutive sets of tandem axles is thirty-six feet or more: *Provided*, That such overall gross weight may not exceed eighty thousand pounds, including all enforcement tolerances",

and inserting in lieu thereof the following: "eighteen thousand pounds carried on any one axle, or with a tandem-axle weight in excess of thirty-two thousand pounds, or with an overall gross weight on a group of two or more consecutive axles produced by application of the following formula:

$$W=500(LN/N-1+12N+32)$$

where W=overall gross weight on any group of two or more consecutive axles to the nearest 500 pounds, L=distance in feet between the extreme of any group of two or more consecutive axles, and N=number of axles in group under consideration, except that two consecutive sets of tandem axles may carry a gross load of 32,000 pounds each providing the overall distance between the first and last axles of such consecutive sets of tandem axles is thirty-six feet or more: *Provided*, That such overall gross weight may not exceed seventy-three thousand two hundred and eighty pounds".

(b) The first sentence of section 127 of title 23, United States Code, is amended by striking out "Federal-Aid Highway Amendments of 1974", and inserting in lieu thereof the following: "Federal-Aid Highway Act of 1975". The third sentence of such section is amended by striking out "Federal-Aid Highway Amendments of 1974", and inserting in lieu thereof the following: "Federal-Aid Highway Act of 1975".

(c) Nothing in the amendments made by subsections (a) and (b) of this section shall be construed to deny apportionment to any State allowing the operation within such State during the period from January 4, 1975, and ending on the day the amendments made by subsections (a) and (b) of this section take effect in such State, or any vehicles or combinations thereof that could lawfully be operated within such State in accordance with section 127 of title 23, United States Code, in effect during such period.

(d) The amendments made by subsections (a) and (b) of this section shall take effect in each State on the 30th day after the first day of a regular session of the legislature of that State which session begins after the date of enactment of this Act.

H.R. 9464

By Mr. KEMP:

An amendment to the substitute, proposed to be offered by Mr. Krueger and appearing in the RECORD of December 8, 1975, at pages 39152-39156, to the bill, H.R. 9464, as follows:

Following section 209 of the proposed substitute, add the following new section:

"Sec. 210. (a) Notwithstanding any provision of the Natural Gas Act or any other provision of federal law or any contractural price limitation applicable thereto on the date of enactment of this section, sales of any natural gas (except synthetic or liquified natural gas) by small producers shall be exempt from regulation of the Federal Power Commission and may be made without any application for a certificate of public convenience and necessity under section 7(c) of the Natural Gas Act (15 U.S.C. 717f(c)); and any such sale shall be made at a price not less than that which adequately compensates the seller for current costs, including an adequate return on investment, as determined by the seller and the purchaser.

"(b) For purposes of this section 'small producer' shall mean an independent producer of natural gas (1) who is not affiliated with a natural gas pipeline company or a producer who is not included within this definition, (2) whose total sales of natural gas on a nationwide basis, together with such sales of affiliated producers, are not in excess of 10 million Mcf at 14.05 P.S.I.A. during any calendar year, and (3) whose average production per well for all wells for such calendar year is not in excess of 100 Mcf per day.

"(c) For purposes of this section 'affiliated producers' are persons who, directly or indirectly, control or are controlled by, or are under common control with, a small producer".

H.R. 9771

By Mr. EDGAR:

Strike section 19.

Renumber the succeeding sections of this Act accordingly.

By Mr. JAMES V. STANTON:

Page 39, immediately after line 14, add the following:

GRANT AGREEMENT CONDITIONS

SEC. 12. Section 19 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1719) is further amended by—

(1) inserting "(a) Offer and Acceptance.—" immediately before the first sentence;

(2) striking out the second sentence and inserting in lieu thereof the following: "An offer shall include a condition that the sponsor or sponsors of the airport at which such airport development is to be accomplished shall not permit the landing, except for emergency purposes, of any civil supersonic aircraft engaged in commercial service which aircraft generates noise at a level in excess of the level prescribed for new subsonic aircraft in regulations issued by the Secretary acting through the Administrator of the Federal Aviation Administration (14 C.F.R., part 36), as such regulations are in effect on October 1, 1975. In addition to the condition set forth in the preceding sentence, an offer shall be made on such other terms and conditions as the Secretary considers necessary to meet the requirements of this part and the regulations prescribed thereunder."; and

(3) adding at the end thereof the following new subsection:

"(b) Violation of Grant Agreement Condition.—If any sponsor permits any aircraft to land at any airport at which such sponsor has expended funds received pursuant to a grant agreement containing the condition set forth in the second sentence of subsection (a) of this section in violation of such condition, then (1) such sponsor shall immediately repay to the United States all funds received pursuant to such grant agreement, and (2) the Secretary shall not make any other grant to either (A) such sponsor for any project for airport development at the airport at which such aircraft landed or at any other airport, or (B) any other sponsor for any project for airport development at the airport at which such aircraft landed.".

Renumber the succeeding sections of this Act and all references thereto accordingly.

H.R. 10979

By Mr. BEARD of Tennessee:

On page 209 of the bill, add a new subsection 5 of section 601 after line 11:

"(5) The provisions of this section shall apply in any state which, on the date of enactment of this section, has in effect a provision of its constitution (or an amendment thereto) which provides for the reasonable classification of property for state purposes."

On page 209 of the bill, add a new subsection 5 of section 601 after line 11:

"(5) The provisions of this section shall not apply in any state which, on the date of enactment of this section, has in effect a provision of its constitution (or an amendment thereto) which provides for the reasonable classification of property for state purposes."

By Mr. EDGAR:

On page 64, at line 17, delete the number "3", and insert in lieu thereof "4". At end of line 20 change the period to a comma and add: "and (4) the Research, Education and Training for Railroad Development and Improvement Account." On page 87 add a new section 805 Research Education and Training for Railroad Development and Improvement Account.

"SEC. 805. (a) There are authorized to be appropriated to the Research, Education and Training for Railroad Development and Improvement Account not more than—

"(1) $2,000,000 by September 30, 1976
"(2) $5,000,000 by September 30, 1977
"(3) $10,000,000 by September 30, 1978
"(4) $5,000,000 by September 30, 1979
"(5) $2,000,000 by September 30, 1980

All funds appropriated pursuant to this authorization shall remain available until expended,

"(b) Funds appropriated pursuant to subsection (a) may be expended by the Secretary to assist public and private nonprofit institutions of higher learning in establishing and carrying out comprehensive training, planning, and research in the problems of rail transportation. Such funds shall be used to conduct competent and qualified research and investigations into the theoretical and practical problems of rail transportation to provide for the training of persons to carry on further research or to obtain employment in private or public organizations, which plan, construct, operate, or manage rail transportation systems. Such research and investigations may include, without being limited to, the design and functioning of rail transportation systems; the interrelationship between various modes of transportation; the role of transportation planning in overall planning; public preferences in transportation; the economic allocation of transportation resources; and the legal, financial, engineering, and aesthetic aspects of rail transportation. In expending funds pursuant to this paragraph, the Secretary shall give preference to institutions of higher learning that undertake such research and training by bringing together knowledge and expertise in the various social and managerial sciences and technical discipline that relate to rail transportation problems."

EXTENSIONS OF REMARKS

REASSESSING DÉTENTE

HON. ALPHONZO BELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1975

Mr. BELL. Mr. Speaker, as you are aware, there is growing concern among Americans over the administration's policies of détente.

It is increasingly apparent that these policies may be nonproductive, or even counterproductive to U.S. interests.

In this connection, I wish to call to the attention of my colleagues an editorial published last week by the Hearst Newspapers, the text of which follows:

LET'S REASSESS DÉTENTE

(By William Randolph Hearst, Jr.)

As Cuban mercenary soldiers, directed and supplied by the Soviet military, conduct cleanup operations after "liberating" the former Portuguese colony of Angola on Africa's southwest coast, it behooves all Americans to take a closer look at our policy of détente with Russia.

Détente isn't working. Under it, Russia is expanding her colonization in strategic parts of the world, eroding American power and prestige, and creating military bases that have the potential of threatening America's vital supply routes for oil and other essentials.

Three American leaders and two other important world figures have criticized this country's compromising role under détente just within this past week and it is time we paid some heed.

This nation's highly respected and supremely articulate chief delegate to the United Nations, Daniel P. Moynihan, warned that it is the Soviet intent to "colonize" all of Africa. Said Mr. Moynihan:

"Any lessened expenditure of energy on military technology (under detente) will lead to an increased expenditure on what the Communists will see as an equally inviting, equally productive area of ideological conflict." And the Soviets, he said, are stepping up their ideological conflict.

Former Secretary of Defense James R. Schlesinger, who was fired by President Ford because his views on detente differ so widely from those in the White House and State Department, assessed detente as "continuation of confrontation in a different form." He said that detente requires the striking of "a delicate balance" between the twin objectives of reducing international tensions and maintaining "the requisite firmness." This, he said, we are not doing.

Admiral Elmo R. Zumwalt Jr., the retired chief of naval operations, charged, in testimony in the House of Representatives, that Secretary of State Henry A. Kissinger had withheld information from President Ford about "gross violations" by the Soviet Union of the 1972 agreements on the limitation of strategic arms. Those accords placed limits on strategic weapons and restricted deployment of anti-ballistic missile systems.

Admiral Zumwalt said that Mr. Kissinger's lack of candor sprang from his personal and political commitment to the success of the detente policy, which made him "reluctant to report the actual facts."

When President Ford and Mr. Kissinger were in Peking this past week, China's peppery Deputy Prime Minister, Teng Hsiaoping, spoke sharply against detente with Russia. He warned bluntly:

"Today it is the country which most zealously preaches peace that is the most dangerous source of war. Rhetoric about detente cannot cover up the stark reality of the growing danger of war."

The angriest outcry against detente came this past week from Aleksandr I. Solzhenitsyn, the Nobel Prize-winning dissident Soviet writer, now in exile, in an article in the "New York Times." In a slashing attack on Secretary Kissinger, he criticized the secretary's defense of detente by pointing to the alternative of nuclear war.

"Mr. Kissinger is least of all a diplomat. 'Alter' in Latin means 'other' (of two). An alternative is a choice between two possibilities. This is a scientific concept. But even scientific situations often allow a much broader choice. But diplomacy is not a science. It is an art, one of the arts concerning the nature of man. To construct diplomacy on an 'alternative' is to put it on the lowest and crudest level.

"How many great diplomats of the past have won negotiations even with empty hands or backed by inadequate power, in circumstances of military weakness, conceding nothing and paying nothing, defeating the opponent only by intellectual and psychological means. That is diplomacy."

Detente, as practiced thus far, has given the Russians virtual domination over the routes on which we must convey our vital supplies of Mideastern oil. Russia's navy, newer and far superior to ours, patrols the Mediterranean and stalks our tankers and our own Sixth Fleet. From bases in Somalia on Africa's east coast, Russian naval vessels patrol the Indian Ocean through which must sail the supertankers that are too large to pass through the Suez Canal.

And now Soviet and Cuban troops are "assisting in the liberation" of Angola, the former Portuguese colony, on the west African coast, with the obvious purpose of establishing Russian bases there which would give other units of the Soviet navy and air force surveillance of the South Atlantic.

Once the Soviets have succeeded in "colonizing" Angola, the Middle East and all of Africa will be completely ringed by Russian naval and air power. And all of this, it must be remembered, has been achieved by the Soviets during our period of detente.

When Secretary of State Kissinger finally became alarmed over the activities of the Popular Movement for the Liberation of Angola that is being engineered from Moscow with the use of Cuban mercenaries, he delivered a mild admonition—"continuation of an interventionist policy (by the Soviets) must inevitably threaten other relationships."

The reply came from "Pravda," the official Communist party newspaper. Detente, said Pravda, in no way inhibits support for "wars of national liberation," nor should it be regarded as freezing spheres of international influence.

The introduction of detente into our foreign policy was a natural consequence of the extremely wholesome efforts of President Richard M. Nixon and Secretary of State Kissinger to halt the arms race with the Soviet Union. It was unrealistic, however, to expect what Moynihan has described as "wholesale relaxation of tensions." That might be our way of doing things, but not the Russians.

The pursuit of detente, and of peace, is the proper and morally correct objective of our foreign policy. Peace should be its goal. Peace, but not peace at any price.

A militarily soft American cannot hope to pursue peace, and as the leading nation of the Western world, it cannot, with a weakened military, offer the necessary security to the other democracies that depend on it.

Detente has caused the United States to "halt the arms race," but except in the area of some missiles, it has not slowed down the Soviets. Under detente the Russians are gaining territory and military bases in ever-widening areas of the world.

China's Teng was right. I agree with him—it's time to take a long, hard look at this thing called detente. It seems to be causing us irreparable harm.

GOVERNMENTAL FISCAL POLICIES

HON. HARRY F. BYRD, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Monday, December 15, 1975

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent to have printed in the Extensions of Remarks an editorial from Nation's Business, December 1975, captioned: "Swarms of Officers To Harass Our People, and Eat Out Their Substance."

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

SWARMS OF OFFICERS TO HARASS OUR PEOPLE, AND EAT OUT THEIR SUBSTANCE

On July 4 of next year, we will observe the 200th anniversary of the signing of the Declaration of Independence.

In that document, the distinguished representatives of the colonies listed a series of grievances against King George III. Among those grievances: "He has erected a Multitude of new Offices, and sent hither Swarms of Officers to harass our People, and eat out their Substance."

Those words are being echoed today by America's middle-income taxpayers, who contribute the bulk of the money to finance government, as spending continues to rise at an alarming rate.

The federal budget for fiscal 1977, which begins Oct. 1, 1976, is likely to send federal spending beyond $400 billion for the first time in the nation's history.

It wasn't until fiscal 1961, or 185 years after the Declaration of Independence, that federal spending reached $100 billion. But it took only nine more years to reach $200 billion; and then only five years to hit $300 billion.

The jump to $400 billion is taking only two years.

Projections by the Office of Management and Budget show the possibility of a $1 trillion annual federal budget by the end of this century.

Budget forecasts, however, overlook a vital factor that cannot be measured precisely.

That factor is how long middle-income taxpayers will put up with the triple impact they suffer under present fiscal policies.

The triple impact is felt this way:

1. The government takes from middle-income workers a substantial amount of the money they earn. A recent congressional report points out the family outlay going up the fastest is not for food or energy, but for taxes.

2. The government then uses that tax money to pursue programs that feed inflation, causing further erosion of personal incomes. The average American lost purchasing power last year for the first time in 15 years.

3. Finally, most middle-income families are shut out of many programs they pay for, such as tax-financed college scholarships.

And so, after 200 years, the basic grievance

is the same—"Swarms of Officers to harass our People, and eat out their Substance."

PRIVATE COLLEGES AVERT SETBACKS

HON. LARRY PRESSLER

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1975

Mr. PRESSLER. Mr. Speaker, South Dakotans have a strong and continuing commitment in education, shown by the numerous public and private colleges which we have in our State. South Dakota has eight private, nonprofit colleges including: Augustana College; Dakota Wesleyan College; Huron College; Mount Marty College; Presentation Junior College; Sioux Falls College; Yankton College; Freeman Junior College. As a member of the Education Committee in Congress, I am particularly interested in our private colleges. The 94th Congress will have a unique opportunity to consider major pieces of comprehensive higher education legislation which will affect these and many other institutions of higher learning.

Knowing that my colleagues join me in believing that education is a foundation stone of our Republic and that the greatness of this country depends upon the education of our children, I believe it is our obligation to become as knowledgeable as possible about the problems now facing our Nation's educational systems. The Association of American Colleges has recently issued a study of accredited, private, nonprofit, 4-year institutions of higher education and I would like to bring to the attention of my colleagues an article by Noel Epstein, printed in the December 7, 1975, Washington Post, concerning this report:

PRIVATE COLLEGES AVERT SETBACKS

(By Noel Epstein)

Private colleges and universities have not suffered the severe financial or academic setbacks predicted in recent years, and most of their presidents see better times ahead.

These are some of the surprising findings of a study to be issued this week by the Association of American Colleges, which represents most of the nation's private campuses.

The study, headed by Howard R. Bowen, a leading economist of higher education, attributes the widely held belief that private campuses are in peril to "evidence that is circumstantial, incomplete and out-of-date."

The report, based on a fall survey of 100 representative colleges and universities, does note "budgetary tightness" at independent campuses, increased rivalry with lower-tuition public universities, a decline in enrollment at some colleges and other problems to be faced.

But, far from sounding another note of alarm, on balance it portrays a private campus world that is generally healthy and guardedly optimistic.

The report shows, for example, an overall enrollment rise since 1970, a revenue gain that has outpaced inflation, a growth in faculty, scarcely any erosion of assets and a significant expansion in academic programs.

"One of the themes that recurs throughout this study is that the private colleges and universities have enormous staying power," the report says. "They are still a viable and sturdy part of the American system of higher education."

Moreover, of the campus presidents surveyed, 76 per cent said they expect their college's prospects to improve or at least hold steady through this decade.

The report does not deal extensively with 1980, when the traditional college-age population will be in decline. Many campuses have begun efforts to lure older students with a theme of "lifelong learning."

The study, which surveyed campuses ranging from Dartmouth, Georgetown and Notre Dame to Williams, Fisk and Oberlin, is likely to have considerable impact because of its sponsorship by the private colleges' own association and the prestige of its chief author.

Bowen, an economics professor at California's Claremont Graduate School, a private school, has headed several prominent colleges and is president of the American Association for Higher Education.

Frederic W. Ness, president of the group issuing the study, said the findings will upset private college officials "who have been predicting major disaster" for independent campuses to congressional committees working on a broad higher-education bill.

But he suggested in an interview that the Bowen report also would buttress arguments that private colleges have been a sound investment for federal and state governments.

"There will be a continuing need for aid from public sources," Ness said. "There is a delicate balance, and it would not take much to turn the curve downward. That would be a serious blow to American higher education."

The Bowen study acknowledges the serious stresses at some campuses and the collapse of other four-year colleges. But it suggests that concentrating on these troubles obscures the basic strength of the private campus network.

The 16 accredited private colleges that have closed since 1970, it says, "represent a mortality rate of the order of 0.5 of 1 per cent a year, which is infinitesimal compared, for example, with mortality among small business firms."

The study adds: "One is also impressed by the smallness, newness, or obscurity that characterizes most of the institutions that have become defunct."

The researchers did find that 27 of the 100 campuses surveyed were in "serious distress" but said that "we are by no means predicting that 27 per cent of all private colleges and universities are headed for extinction." There are 866 private colleges out of a total of 2,400 colleges and universities in the United States.

While there are no comparable data for earlier years, the study says, "at any given time in the past, some private institutions have been in distress and there have been periods when distress was widespread."

"It is not known to what degree the present situation is 'normal' or 'exceptional.' Moreover, it is possible that some of the many institutions now apparently in trouble will achieve a turnaround," as several others have since 1970.

Judging by mortality rates alone, the report notes that 19 per cent of the 290 colleges founded between 1947 and 1970 had disappeared by 1970. "Thus we must be cautious in drawing the inference that the recent mortality since 1970 . . . was exceptional," the report warns.

Moreover, measured as a whole, the report paints a picture of private campuses holding up surprisingly well in a nation beset by hard times.

Their strength has been maintained, the report notes, amid donor anger at student protests, the depressed economy and stock market, soaring inflation, the gap between private and public college tuition, and "the constant and possibly self-fulfilling allegation that most private institutions would soon be defunct."

Despite all this, the Bowen report found:

Overall enrollment rose 7 per cent from 1969-70 to 1971-72, held steady for the next two years, then added another percentage-point gain. The most dramatic increases came at the graduate and professional levels, more than offsetting a slight decline in the total number of undergraduates. Federal and state student aid, as well as more recruiting, helped bolster enrollment.

Total revenue to finance current operations, after allowing for inflation and enrollment growth, increased slightly from 1970-71 through 1973-74. Though tuition and fees rose 25 per cent in that period, private colleges didn't—"despite much opinion to the contrary"—gain a greater share of their income from these sources, primarily because of inflation.

Predominantly black liberal arts colleges showed greater revenue gains than their white counterparts, chiefly because of increased government tuition aid to their students.

Outlays for instruction and research rose less than total expenditures from 1970-71 through 1973-74, while spending on administration and other services increased more. The rapid rise in administrative outlays was linked to increases in fund-raising, student recruiting and paperwork stemming from government regulations.

Faculty ranks grew by 5 per cent from 1969–70 through 1974–75, though salary boosts slipped behind soaring living costs. The colleges increased administrative and clerical staffs at more than double the rate of faculty growth, but cut back on blue-collar employees as one way of retrenching.

"New (academic) programs and expansion of existing programs are far in excess of deletions and contractions . . . Most institutions have not yet suffered financial reverses so severe that educational performance has been adversely affected."

COURT ACTION FOR DAMAGES AGAINST FEDERAL GOVERNMENT

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1975

Mr. UDALL. Mr. Speaker, I have today introduced a bill to allow certain individuals who were given or administered hallucinogenic drugs as part of experiments by the Armed Forces of the United States to bring an action for damages against the Government.

In recent months, the Nation has been shocked by revelations that over a period of years the Armed Forces and the CIA conducted drug experiments on human beings.

In the course of hearings conducted by the Health Subcommittee and the Subcommittee on Administrative Practice and Procedure, various individuals presented shocking testimony about their experiences during and following LSD and other drug experiments. These witnesses testified that in some cases these experiments were conducted without proper medical supervision, and in many cases these drugs were administered without the subjects' knowledge or approval. The tragic result was that many "subjects" were totally unprepared to

cope with the effects of the drugs. The graphic descriptions of the physical and psychological effects of these experiments on the victims is a horrifying story of Government malfeasance. In many cases, the result was death or attempted suicide by the victims.

Action is now being taken to see that these flagrant abuses never again occur. Legislation has been introduced to extend the jurisdiction of the National Commission for the Protection of Human Subjects of biomedical and behavioral research to cover all Government agencies. This is essential if such massive abuses of individual rights are to be prevented in the future. But we should not ignore what has happened to the people who became the unwilling victims of these experiments. The Government should accept legal responsibility for any damages suffered by the victims of these experiments.

Many of those involved in these experiments were military personnel at the time. Unfortunately, the Federal Tort Claims Act precludes these people from any legal redress for injuries. If these people have suffered damages as a result of negligence by the Federal Government, the Federal Government has a responsibility to see that they are properly compensated. My bill will simply waive any jurisdictional limitations and governmental immunity to suit and allow any individual who has a claim the chance to take his case to court.

AGE OF FISCAL MISMANAGEMENT

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1975

Mr. ABDNOR. Mr. Speaker, the big spenders of the Congress may think they are doing the people of this country a big favor with their recordbreaking budgets, but there is increasing evidence that the American public is beginning to think otherwise. More and more, people writing my office are expressing their dismay at the increasing deficits and what it means to the future of this Nation and its free enterprise system. They are clearly worried about our future freedom.

Mr. C. B. Shroyer, of Mitchell, put it succinctly. I want to share his letter with my colleagues:

DECEMBER 8, 1975.

JAMES ABDNOR,
U.S. House of Representatives,
Washington, D.C.

To the Honorable Congressman ABDNOR: I would like to pass on my personal viewpoint on our U.S. Government spending levels. I believe that Congress is making a fatal error in their continued disregard for the need to match spending with income. Politics being what they are, it is far easier to "look good" by voting for additional government programs and increased spending levels than it is to cut back and match the government's income level. My prediction is that I will never see a year in my lifetime where our income equals our spending. I see no way for the U.S. Government to continue ad-infinitum with this practice and avoid a serious, if not fatal financial collapse. I know alarmist talk like this is always dismissed with "it will never happen here." However, after seriously studying the New York (City and State) and Great Britain situations, it's my belief that it will happen here. Specifically, how many years away are we from the day when our debt service charges get too big to handle with ease? I'll bet we are closer than most people think. Whatever steps we take to ease the burden at that point are bound to have serious ramifications for our major banks. The steps from there to a full blown financial crisis are short ones.

In summary, I think it is a moral crime against our sons, daughters, and friends of the next generation to continue our present overspending policies. I think history will identify this era as the "age of fiscal mismanagement." I urge you to think seriously about this and take whatever steps you can to change our present direction and head off the inevitable "day of reckoning."

Sincerely,

C. B. SHROYER.

OIL BOOM RETURNS TO PENNSYLVANIA TOWN

HON. ALBERT W. JOHNSON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1975

Mr. JOHNSON of Pennsylvania. Mr. Speaker, practically the entire Pennsylvania oil fields are located in the 11 counties which comprise my congressional district, the 23rd District of Pennsylvania. One of the leading cities in the 23rd district is Oil City, located in Venango County just a few miles from the location of the world's first oil well. The Drake Well, drilled in 1859, started the oil industry of the world. This oil strike is the greatest discovery of natural resource in history, coming 10 years after the discovery of gold in California. Bill Richards, a Washington Post staff writer, visited Oil City recently and wrote an article about Oil City. On the eve of the 200th anniversary of our independence, I thought it would be interesting for others to read about Oil City as it is today. The Washington Post article of November 2, 1975 follows:

OIL BOOM RETURNS TO PENNSYLVANIA TOWN

(By Bill Richards)

OIL CITY, Pa.—It is not the place it used to be—and probably never will be again—but fortunes still rise and fall by the liquid barometer of oil here near the spot where it all began.

Just a couple of Allegheny foothills away, about 15 miles up a road now lined with fat, round, bulk oil storage tanks and the stacks of refineries, is the site of the world's first oil well—a 2,000-barrel-a-year producer when it was drilled in 1859 by an unemployed railway conductor, Edwin Laurentine Drake.

Since Drake's momentous find there have been good times and some bad times here. But now, with oil bringing more than $12 a barrel, things are once again looking up in Oil City.

There is new construction under way, including a multitiered parking garage and a $6 million building for the Quaker State Oil Refining Corp., one of two refiners with headquarters here.

Last year Quaker State drilled 444 wells in a swath known as the Penngrade area, running from western New York to West Virginia and Ohio. Oil exploration and production have kept the unemployment level here at 6.7 per cent, less than either the state or national average, and orders are flowing in to local businesses for supplies.

A general air of optimism prevails as a result of the sprucing up in this grimy little city (population 16,000) nestled near a bend in the Allegheny River.

"This city,' 'Chamber of Commerce official Richard Blouse proclaimed recently, "seems to be going through a revival."

The source of this optimism is the knowledge that locked in a bed of sandstone about 800 feet beneath the surface of the Penngrade area is a storehouse of millions of barrels of high-grade crude oil.

"They keep saying we're going to run out, but we keep finding more," said Quaker State Corp. President Quentin E. Wood, an enthusiastic petroleum engineer who has been with his company for 27 years. "The oil is there," he said. "Yes sir, it sure is there."

The oil that has drawn Wood's enthusiasm and the interest of other corporate and private drillers in the last few years here is a thin, greenish-colored substance that doesn't gush from the ground like it does from deep wells in Texas and Oklahoma.

Instead, it seeps into thousands of shallow wells that have been punched down through the hillsides and stands of white oak that surround this area, rising to the surface at an average rate of a quarter of a barrel a day.

Pennsylvania crude oil is high in paraffin and lubricants unlike Western oil, which is primarily composed of an asphalt base and is low in lubricants. Most Western oil goes into the production of gasoline, but here the oil usually ends up being refined as motor oil and machinery lubricants.

There are no million-barrel gushers here, raining down black gold on the heads of dancing wildcatters. Instead, oil wells discreetly scattered across the countryside are known as "strip wells," and they are tapped about the way a Vermont farmer taps his sugar maples—a trickle at a time.

Quaker State, the most active oil producer in the area, relies on these strip wells for more than 80 per cent of the 20,000 barrels it refines daily.

There have been advantages and disadvantages to this low profile.

When the big oil fields of the Southwest began to open up in the 1920s and 1930s, much of the action shifted away from here. The hordes of prospectors, speculators, lease buyers, drillers and general hangers-on that go with an oil boom drifted West. Big refiners such as Pennzoil moved their headquarters from Oil City to Houston.

Left behind was a slumping business dependent on low-volume wells that appeared to be drying up. The discovery in the early 1960s of a method of removing additional oil from wells believed to be almost worked out still left the problem of mounting production costs eating up the profits from the relative trickle of oil coming from the ground.

"There was a time when nearly everybody around here owned at least one oil well on the side," said Blaine Luke, a 59-year-old area native who owns 150 wells on his 350-acre farm.

Luke dropped out of the oil business full-time in 1970 because, he said, "oil was selling for $3 a barrel and no matter how hard you try with the cost of things you just can't make her work at that price."

An unexpected advantage to the low profile occurred however, when the government's price regulations on oil—imposed after prices started climbing during the Arab embargo two years ago—excluded strip wells that produced fewer than 10 barrels per day.

Federally regulated oil, which includes oil from wells drilled before 1972, is currently priced at $5.25 per barrel, while oil drilled

from newer wells and strip wells is selling for $12.25 per 42-gallon barrel.

The federal regulations made the abandoned oil wells here more attractive to operate and spurred the drilling and exploration of new wells.

"There's no question that oil fever is around here again," said Alan McKissick, a professional pilot who formed a small syndicate that invested about $30,000 in two new wells here last summer.

McKissick's wells haven't paid their way yet, he said, adding in classic gambler's fashion, "but we're going to drill more wells as soon as we get more money."

The prospect of all the unregulated oil money is even more attractive to others here who own the idle wells.

After work these days, Luke and his 20-year-old son, Clark, tinker with the rusty machinery that can pump eight wells simultaneously. For an hour each night the two run the pumps and watch as each well grudgingly gives up a single barrel of oil.

The painstaking process, Luke said, is paying off. In the last year the two have tripled their income from their part-time oil business to $6,000.

"If the government just leaves the price alone," said the small gray-haired driller as he watched the long rusty push rods that connect the wells with the pumping engine squeaking back and forth, "I just may end up being able to retire with a little money after all."

"WOMEN'S WORLD PLAN OF ACTION": NATIONAL ACTION

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1975

Mr. FRASER. Mr. Speaker, the "World Plan of Action," which was the working paper of the United Nations Conference on International Women's Year, has a section titled "National Action" which is particularly relevant to this body as well as to other public and private institutions.

Since the World Plan has not been widely distributed, I am inserting this section, paragraphs 26 through 48, so that my colleagues may have this information conveniently at hand:

I. NATIONAL ACTION

26. This Plan provides guidelines for national action over the 10-year period from 1975 to 1985 as part of a sustained, long-term effort to achieve the objectives of the International Women's Year. The recommendations are not exhaustive, and should be considered in addition to the other existing international instruments and resolutions of the United Nations bodies which deal with the condition of women and the quality of life. They constitute rather the main areas for priority action within the decade.

27. The recommendations for national action in this Plan are addressed primarily to Governments, and to all public and private institutions, women's and youth organizations, employers, trade unions, mass communications media, non-governmental organizations, political parties and other groups.

28. Since there are wide divergencies in the situation of women in various societies, cultures and regions, reflected in differing needs and problems, each country should decide upon its own national strategy, and identify its own targets and priorities within the present World Plan. Given the changing conditions of society today, operative mechanism for assessment should be established and targets should be linked to those set out, in particular, in the International Development Strategy for the Second United Nations Development Decade,[3] and in the World Population Plan of Action.[4]

29. Changes in social and economic structures should be promoted which would make possible the full equality of women and their free access to all types of development, without discrimination of any kind, and to all types of education and employment.

30. There should be a clear commitment at all levels of government to take appropriate action to implement these targets and priorities. Commitment on the part of Governments to the ideals of equality and integration of women in society cannot be fully effective outside the larger context of commitment to transform fundamental relationships within a society in order to ensure a system that excludes the possibility of exploitation.

31. In elaborating national strategies and development plans in which women should participate, measures should be adopted to ensure that the set targets and priorities should take fully into account women's interests and needs, and make adequate provision to improve their situation and increase their contribution to the development process. There should be equitable representation of women at all levels of policy—and decision-making. Appropriate national machinery and procedures should be established if they do not already exist.

32. National plans and strategies for the implementation of this Plan should be sensitive to the needs and problems of different categories of women and of women of different age groups. However, Governments should pay special attention to improving the situation of women in areas where they have been most disadvantaged and especially of women in rural and urban areas.

33. While integrated programmes for the benefit of all members of society should be the basis for action in implementing this Plan, special measures on behalf of women whose status is the result of particularly discriminatory attitudes will be necessary.

34. The establishment of interdisciplinary and multisectoral machinery within government, such as national commissions, women's bureaus and other bodies, with adequate staff and budget, can be an effective transitional measure for accelerating the achievement of equal opportunity for women and their full integration in national life. The membership of such bodies should include both women and men, representative of all groups of society responsible for making and implementing policy decisions in the public sector. Government ministries and departments (especially those responsible for education, health, labour, justice, communications and information, culture, industry, trade, agriculture, rural development, social welfare, finance and planning), as well as appropriate private and public agencies should be represented on them.

35. Such bodies should investigate the situation of women in all fields and at all levels and make recommendations for needed legislation, policies and programmes establishing priorities. Follow-up programmes should be maintained to monitor and evaluate the progress achieved within the country to assess the implementation of the present Plan in national plans.

36. These national bodies should also cooperate in the co-ordination of similar regional and international activities, as well as those undertaken by non-governmental organizations, and self-help programmes devised by women themselves.

37. Constitutional and legislative guarantees of the principle of non-discrimination on the ground of sex and of equal rights and responsibilities of women and men are essential. Therefore, general acceptance of the principles embodied in such legislation and a change of attitude with regard to them should be encouraged. It is also essential to ensure that the adoption and enforcement of such legislation can in itself be a significant means of influencing and changing public and private attitudes and values.

38. Governments should review their legislation affecting the status of women in the light of human rights principles and internationally accepted standards. Wherever necessary, legislation should be enacted or updated to bring national laws into conformity with the relevant international instruments. Adequate provision should also be made for the enforcement of such legislation, especially in each of the areas dealt with in chapter II of the Plan. Where they have not already done so, Governments should take steps to ratify the relevant international conventions and fully implement their provisions. It should be noted that there are States whose national legislation guarantees women certain rights which go beyond those embodied in the relevant international instruments.

39. Appropriate bodies should be specifically entrusted with the responsibility of modernizing, changing or repealing outdated national laws and regulations, keeping them under constant review, and ensuring that their provisions are applied without discrimination. These bodies could include, for example, law commissions, human rights commissions, civil liberties unions, appeals boards, legal advisory boards and the office of ombudsman. Such bodies should have full governmental support to enable them to carry out their functions effectively. Non-governmental organizations could also play an important role in ensuring that relevant legislation is adequate, up to date and applied without discrimination.

40. Appropriate measures should be taken to inform and advise women of their rights and to provide them with every other type of assistance. Accordingly, the awareness of the mass communication media should be heightened so that they may offer their broad co-operation through public education programmes. Non-governmental organizations can and/or should be encouraged to play similar roles with regard to women. In this context, special attention should be paid to the women of rural areas, whose problem is most acute.

41. Efforts to widen opportunities for women to participate in development and to eliminate discrimination against them will require a variety of measures and action by society at large through its governmental machinery and other institutions.

42. While some of the measures suggested could be carried out at minimum cost, implementation of this Plan will require a redefinition of certain priorities and a change in the pattern of government expenditure. In order to ensure adequate allocation of funds, Governments should explore all available sources of support, which are acceptable to Governments and in accordance with Governments' goals.

43. Special measures should also be envisaged to assist Governments whose resources are limited in carrying out specific projects or programmes. The Fund for International Women's Year established under Economic and Social Council resolution 1851 (LVI), in addition to multilateral and bilateral assistance which is vital for the purpose, should be extended provisionally pending further consideration as to its ultimate disposition in order to assist Governments

[3] General Assembly resolution 2626 (XXV) of 24 October 1970.

[4] See *Report of the United Nations World Population Conference, 1974* (United Nations publication, Sales No. E.75.XIII.3).

whose resources are limited in carrying out specific programmes or projects. Women in countries holding special financial responsibilities entrusted by the United Nations and its specialized agencies with a view to assisting developing countries are called upon to make their contribution to the implementation of the goals set in connexion with the governmental assistance earmarked for improving the status of women especially of those in the under-developed States.

44. It is recognized that some of the objectives of this Plan have already been achieved in some countries, while in others they may only be accomplished progressively. Moreover, some measures by their very nature will take longer to implement than others. Governments are therefore urged to establish short-, medium- and long-term targets and objectives to implement the Plan.

45. On the basis of this World Plan of Action the United Nations Secretariat should elaborate a two-year plan of its own, containing several most important objectives, aiming at the implementation of the World Plan of Action under the current control of the Commission on the Status of Women, and the over-all control of the General Assembly.

46. By the end of the first five-year period (1975–1980) the achievement of the following should be envisaged as a minimum;

(a) Marked increase in literacy and civic education of women, especially in rural areas;

(b) The extension of co-educational technical and vocation training in basic skills to women and men in the industrial and agricultural sectors;

(c) Equal access at every level of educatiton, compulsory primary school education and the measures necessary to prevent school drop-outs;

(d) Increased employment opportunities for women, reduction of unemployment and increased efforts to eliminate discrimination in the terms and conditions of employment;

(e) The establishment and increase of the infrastructural services required in both rural and urban areas;

(f) The enactment of legislation on voting and eligibility for election on equal terms with men and equal opportunity and conditions of employment including remuneration and on equality in legal capacity and the exercise thereof;

(g) To encourage a greater participation of women in policy-making positions at the local, national and international levels;

(h) Increased provision for comprehensive measures for health education and services, sanitation, nutrition, family education, family planning and other welfare services;

(i) Provision for parity in the exercise of civil, social and political rights such as those pertaining to marriage, citizenship and commerce;

(j) Recognition of the economic value of women's work in the home in domestic food production and marketing and voluntary activities not traditionally remunerated;

(k) To direct formal, non-formal and lifelong education towards the re-evaluation of the man and woman, in order to ensure their full realization as an individual in the family and in society;

(l) The promotion of women's organizations as an interim measure within workers' organizations and educational, economic and professional institutions;

(m) The development of modern rural technology, cottage industry, pre-school day centres, time and energy saving devices so as to help reduce the heavy work load of women, particularly those living in rural sectors and for the urban poor and thus facilitate the full participation of women in community, national and international affairs;

(n) The establishment of an inter-disciplinary and multi-sectoral machinery within the government for accelerating the achievement of equal opportunities for women and their full integration into national life.

47. These minimum objectives should be developed in more specific terms in regional plans of action.

48. The active involvement of non-governmental women's organizations in the achievement of the goals of the 10-year World Plan of Action at every level and especially by the effective utilization of volunteer experts and in setting up and in running of institutions and projects for the welfare of women and the dissemination of information for their advancement.

THE FEDERAL ROLE IN THE MID-AMERICA REGION

Hon. Theodore M. (Ted) Risenhoover

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1975

Mr. RISENHOOVER. Mr. Speaker, Oklahoma has produced no greater leader and innovator than the late Senator Robert S. Kerr. Today, Oklahoma and this Nation are fortunate that his son, Robert S. Kerr, Jr., inherited the father's imagination, courage, and dedication to public service.

At a public forum on domestic policy chaired by Vice President ROCKEFELLER at Austin, Tex., last November 11, Mr. Kerr, as president of Oklahoma Water, Inc., and the Water Development Foundation of Oklahoma, Inc., issued a proposal which demands national attention and has my full support and endorsement.

A plan for orderly development of mid-America—that expanse of our Nation from the Mississippi River to the Rockies—is dramatically sketched in the fascinating position paper by Mr. Kerr which I will furnish upon request to interested persons.

A summary of Mr. Kerr's proposals—including the idea of a mid-America development association—merits review by Congress. Therefore, I include it in the RECORD:

THE FEDERAL ROLE IN THE MID-AMERICA REGION—SOME SPECIFIC PROPOSALS

(By Robert S. Kerr, Jr.)

The development of Mid-America represents the challenge to our nation throughout the balance of this century. As a matter of national interest, it is imperative that we adopt a policy of preferred growth such as I've proposed.

Continued growth is inevitable, but it can be controlled if proper planning is performed, and if proper methods are applied.

First, an incentive to encourage the natural migration pattern which is already evident is needed. Such an incentive could be extended by the Federal Government through investments in water and other resource programs which are badly needed in the Mid-America region. Not only would thousands of people be put to work in constructing resource projects, creating an immediate economic transformation in many areas, but the end result would be projects which would beneficially serve both present and future populations. In the case of water development, the benefits would be in the form of assured water supplies to support the new population base; increased agricultural production from irrigated acreages; impetus for industrial expansion; flood control benefits; recreational opportunities; and the benefits to be derived from the development of navigable waterways.

A federal investment in water resource development would, then, begin paying dividends almost immediately. It would pay large returns through the creation of jobs, the stabilization of the economy and the encouragement of fiscal responsibility, and would act as a magnet for private investment. The federal program should "prime the pump", to create the infra-structure of a state-regional-federal cooperative effort.

To plan and initiate policy, a Mid-America Development Association should be established. This association should be composed of representatives of the various states of the region, specifically the governors of those states; representatives from the private sector and responsible representatives of various environmental and special interest groups. The association would eventually eliminate the need for the multitude of federal agencies which now control the strings of regional economic development.

The association would be the agency responsible for the development and implementation of preferred growth and economic policies for Mid-America. It provides the most viable method of assuring that the ultimate development of the region is controlled by the state, regional and local interests who have the most to gain—and the most to lose—from such development. Let me emphasize here that I am proposing a mechanism by which the states within the Mid-America region will recapture and retain control over their own destinies. The states themselves will be responsible for making their own plans and establishing their own priorities. The challenge of the Federal Government in this instance is to cooperate—rather than to regulate.

In essence, I concur with Senator Jacob K. Javits' remarks for Limits to Growth '75: "What the United States needs is a national policy on growth, a 'Balanced Growth Policy' that strives to meet our basic needs for decent housing, education, jobs, public services, a healthy and a better environment, and sets priorities in these areas and proposals for achieving these goals. We need to take into account the rapid exhaustion of our non-renewable resources—or of imported materials which are under monopoly control—and develop conservation measures that will conserve and use these resources wisely. We must find some means of reconciling a more mature growth rate with greater—not less equality of opportunity and a decent standard of living. And we must do this without sapping individual initiative and creativity, which has been the mainspring of this society. We can never permit a state in which we are all wards of the state."

I believe the program I've proposed will serve the dual national interests of helping to create a dynamic domestic policy and of making government more responsible to the people it serves.

SUMMARY AND RECOMMENDATIONS

America today faces great challenges in developing a domestic policy for the future.

The development of the nation's natural resources presents the greatest challenge, and is the cornerstone of all other domestic policies.

Water resource development is the key to natural resource development because of the essential nature of water to all things.

The nation's population will continue to grow, and the challenge is to develop a policy of preferred growth to direct it to the areas which can best accommodate it.

The Mid-America region, with its many

inherent advantages, represents the most logical area. Immigration, in fact, is already occurring there.

The federal role should be to provide incentives to draw people into the region.

The region itself should determine the scope and substance of the development.

The most viable way to assure this is to create a private, autonomous association to plan for and direct the development of the region.

THE VOICE OF DEMOCRACY

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1975

Mr. SARASIN. Mr. Speaker, this past weekend, I had the honor and privilege of being one of three judges to evaluate the Waterbury, Conn., entries in the Voice of Democracy contest and to select the local winner to go on to the next level of the competition. As I am sure my colleagues are aware, the Voice of Democracy program is a patriotic script writing scholarship competition sponsored each year by the Veterans of Foreign Wars of the United States, its ladies auxiliary, and the National and State Associations of Broadcasters.

Local posts of the VFW organize the programs in the communities, which are open to public, parochial, and private high school students in the 10th, 11th, and 12th grades. The competition I was invited to help judge was sponsored by the Wheeler-Young VFW Post No. 201 of Waterbury, under the chairmanship of Mr. Oscar Teubner, and was indeed an inspiration to all involved. My fellow judges were Waterbury mayor-elect Edward Bergin and Mr. Frank DeZinno, executive assistant to incumbent Mayor Victor Mambruno.

The theme for this year's contest is "What Our Bicentennial Heritage Means to Me," and the entries provided heartening proof that the young men and women in our high schools do take their great heritage seriously and look with clear-eyed optimism to the future. Reading or listening to the scripts prepared by these young Americans can give us all hope for an even greater country in the next 200 years, remembering past accomplishments and learning from past mistakes.

The three finalists in the local judging were Bruce Charpie, age 17, of 113 Clowes Terrace, Waterbury, a student at Wilby High School, Timothy J. Maloney, age 16, of 61 Rosemont Avenue, Waterbury, a student at John F. Kennedy High School, and William Gruber, age 16, of 19 Dewberry Road, Waterbury, a student at Crosby High School. All submitted outstanding entries, but we finally awarded first place to Bill Gruber, for his thoughtful and mature essay, which I offer for my colleagues' consideration:

WHAT THE BICENTENNIAL MEANS TO ME, A YOUNG AMERICAN

(By Bill Gruber)

America: A word that means many things. To some people it means everything.

America: A call. A shout. A way of life.

America: For Two Hundred Years, something men have died for, and lived for: with no other purpose than to protect the values and ideals for which it stands.

That is what the bicentennial means to me.

PART I

It is hard for me to talk about this country. I sustain the somewhat unpopular opinion that America is the greatest country in the world. People don't feel such dated emotions as patriotism anymore. Perhaps I am a bit naive in the minds of progressive thinkers, but I still hold great stock in such ideals as democracy and liberty-and-justice-for-all.

I feel this is a time to glance back at past accomplishments; There have been many. And past mistakes; we must be sure they do not happen again. Certainly it is a time to fly flags and have parades, but the important thing is to sit down and think. Where are we going? What can I do to help this country—my country?

No one really likes to talk politics, but we must. We must get involved in government. We don't have to run for office, but at least get off of our duffs and vote. After all, Isn't that what government by the people is all about?

We must stop trying to tear apart government agencies. Everyone wants a perfect system. There is no such thing. Organizations such as the C.I.A. are vital to the preservation of the ideals which Americans hold dear. If, at times, they must do acts which may seem unconventional, let us consider them a necessary evil. By opening them up and destroying effectiveness, we are draining our own life blood.

This is a time to realize that we must accept a less than perfect system. It is run by people. They are not supermen. They will, from time to time make mistakes. Despite it's imperfection, I still think that the United States has the best form of government going. In this world, anyway.

PART II

How can I help?

For the average teenager, who cannot vote, and has little say in how the government is run, the means of contribution are limited. In my opinion, the thing to do is to take the country seriously. Stop to appreciate things that American youth take for granted. Begin to develop a positive attitude about this country of ours. And prepare ourselves to help out when our time comes.

As for myself, I am applying in the Spring of 1976 for a nomination to a United States Service Academy. I desire a career in the armed forces of the United States. I feel I can make no greater contribution. I am prepared to spend my life in the service of America. This country has been around for the last two hundred years, and, from what I've seen in the last sixteen, I love it.

In a very short time, we young people are going to have the greatest country in the world dropped right in our laps. To others, that may seem an awesome and unfortunate responsibility. As for me. . . . I can't wait.

VOTING RIGHTS

HON. LLOYD MEEDS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1975

Mr. MEEDS. Mr. Speaker, my distinguished colleagues. I am today introducing legislation which if passed into law will alleviate an inequity within the U.S. Postal Service affecting the voting rights of many Americans.

The U.S. Postal Service's current practice regarding absentee ballots with insufficient postage imperils the voting rights of any citizen who may avail himself or herself of this privilege to the extent of possibly denying franchise to such an individual. If the Postal Service receives an absentee ballot with insufficient postage, their current practice is to open said ballot to attempt to ascertain a return address thus risking the possibility of invalidating the ballot. If no return address is found, the ballot is offered to the addressee for delivery upon payment of the postage due plus a 10-percent fee. This practice places a financial burden on the addressee; namely, the auditor's office, which they may or may not be willing to assume.

In my correspondence with the Postal Service on this matter they assert that there is "no need to be unduly concerned." My assertion, Mr. Speaker, is that if this practice denies the franchise of just one American citizen then it must be altered.

The legislation that I introduce today will guarantee the delivery of these absentee ballots without denying the Postal Service their right to collect any postage due.

SOCIAL SECURITY SURVEY RESULTS

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 15, 1975

Mr. GAYDOS. Mr. Speaker, as has been my custom over the past several years, I would like to bring to the attention of my colleagues the results of a recent telephone poll I conducted among residents of the 20th Congressional District of Pennsylvania.

The poll dealt with the growing problem of financing the Federal social security program and participants were asked their opinion of a proposal to use general revenue funds to help offset the continued rising costs now borne by employers and employees. In short, they were asked if they wanted the Federal Government to assume a full one-third partnership in the social security program. The participants were furnished information "pro and con" on the proposal before being asked their opinion.

The results showed 1,184 of those contacted favored the proposal; 856 opposed it and 643 expressed no preference.

Mr. Speaker, there are approximately 3,000 persons who voluntarily participate in these periodic polls and based on the latest response from 2,683 of them it means an amazing 88 percent of those contacted demonstrated an interest in their Government. It makes me extremely proud to represent such people and appreciative of their willingness to share their views with me.